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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 356.

THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY, THE ILLINOIS CENTRAL RAILROAD COMPANY, AND THE CHICAGO, ST. LOUIS AND NEW ORLEANS RAILROAD COMPANY, PLAINTIFFS IN ERROR,

vs.

WIRT ADAMS, STATE REVENUE AGENT.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI.

FILED JUNE 28, 1900.

(17,841)

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1 Pleas and proceedings had and done at a regular term of the supreme court of Mississippi, begun and held at the court-room, in the capitol, in the city of Jackson, on the first Monday, the 5th day, of March, A. D. 1900.

Present: The Honorable Thomas H. Woods, chief justice, and the Honorable Albert H. Whitfield and the Honorable S. H. Terral, associate justices; E. W. Brown, clerk of said court, in person and by W. J. Brown, Jr., his deputy; Thomas J. Wharton, Jr., marshal, and Thomas Grant, porter.

Be it remembered that heretofore, to wit, on the 29th day of September, 1899, there was filed in the clerk's office of said supreme court a certain transcript of record from the circuit court for the first district of Hinds county, Mississippi, which is in the words and figures following, to wit:

Pleas and proceedings had and done at a regular term of the circuit court in and for the first district of Hinds county, Mississippi, begun and held at the court-room, in the city of Jackson, on the third Monday, the 19th day, of June, 1899.

Before the Honorable Robert Powell, judge of the seventh judicial district of the State of Mississippi and presiding judge of said court.

Be it remembered that heretofore, to wit, on the 25th day of April, 1899, there was filed in the clerk's office of said court a certain declaration, which, with the endorsements thereon, is in words and figures following, to wit:

Declaration.

In the Circuit Court of Hinds County, First District, State of Mississippi.

WIRT ADAMS, State Revenue Agent, Use of STATE OF MISSISSIPPI *et al.*,
vs.
2 YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET AL.

Comes Wirt Adams, State revenue agent, duly elected and qualified as such, who sues for the use of the State of Mississippi and of the counties of Hinds, Copiah, Claiborne, Jefferson, and Adams, in said State, and of the cities and towns, in said State, of Jackson, Raymond, Utica, Fayette, Harriston, Natchez, Learned, Hermansville, and Martin, and complains of Yazoo & Mississippi Valley Railroad Company, a railroad corporation duly chartered and organized under the laws of the State of Mississippi and having an agent for the transaction of its railroad business in the city of Jackson, county of Hinds, first district, State of Mississippi, in the person of George R. Gordin, and with who- are joined as defendants

herein The State Railroad Assessors, composed of J. J. Evans, of Monroe county, Mississippi; J. D. McInnis, of Lauderdale county, Mississippi, and M. M. Evans, of Jackson county, Mississippi, and the following tax collectors of the following counties of said State: W. T. Ratliff, of Hinds county; Jesse Thompson, of Copiah county; R. C. McCay, of Claiborne county; C. C. Coffey, of Jefferson county; S. Duncan Baker, of Adams county, and the following tax collectors of the following municipalities of said State: D. P. Porter, Jr., of the city of Jackson; —— ——, of the town of Raymond; —— ——, of the town of Utica; —— ——, of the town of Fayette; —— ——, of the town of Harriston; —— ——, of Natchez; —— ——, of the town of Learned, and —— ——, of the town of Hermansville, and —— ——, — the town of Martin, and for his cause *and* action states:

For that whereas heretofore, on, to wit, the — day of ——, 1892, said Yazoo & Mississippi Valley Railroad Company acquired that railroad property, lying in said State, counties, and municipalities, known as the Natchez, Jackson & Columbus division of Louisville, New Orleans & Texas Railway Company, and the same has been owned, operated, and controlled by said Y. & M. V. R. R. Co. since said date and still is owned, operated, and controlled by it,

3 and for that said railroad property being in the said State, counties, and municipalities during the year 1898, and on the first day of February, 1898, was duly assessed for taxation in and for said year 1898, in said State of Mississippi, under and in accordance with the statutes of said State in that behalf provided by the State railroad assessors of the State of Mississippi, as assessors of railroads in said State, after due notice to and service upon said Y. & M. V. R. R. Co., as provided by law, and upon schedules returned by it as required by law, and after objections made to said assessment by said defendant company and considered and overruled by said railroad commission, and for that said commission duly classified, as by law provided, the said property known as N., J. & C. division of defendant company for privilege taxation under said laws as being and belonging for the year 1898 to the second class, and for that said assessments were duly made up into assessment-rolls and certified as by law provided, and were duly sent to the clerks of the boards of supervisors of said several counties and to the clerks of the boards of mayor and aldermen of said several municipalities, and duly filed as required by law, a copy of which is herewith filed as Exhibit A; that said assessments were as follows:

For the county of Hinds	$336,478.00
For the county of Copiah	37,993.00
For the county of Claiborne	172,548.00
For the county of Jefferson	234,821.00
For the county of Adams	134,319.00

And for said municipalities as follows:

For the city of Jackson	7,438.00
For the town of Raymond	13,516.00

For the town of Utica	6,656.00
For the town of Learned	4,389.00
For the town of Hermansville	
For the town of Fayette	5,446.00
For the town of Martin	5,449.00
For the town of Harriston	5,336.00
For the town of Natchez	29,698.00

4 That there was duly levied a State tax of 6½ mills on the dollar after the said several county assessments for the year 1898.

That there was duly levied a State privilege tax for the said year 1898 of $15.00 per mile on each mile of said railroad of said N., J. & C. division, that being the tax for railroads of the second class.

That the boards of supervisors of said several counties duly levied upon all property within their respective counties for said year 1898 county taxes as follows:

In Hinds county, 6 mills on each dollar of value.
In Copiah county, 7 mills on each dollar of value.
In Claiborne county, 8½ mills on each dollar of value.
In Jefferson county, 9.15 mills on each dollar of value.
In Adams county, 9 mills on each dollar of value.

That the board of mayor and aldermen of said several municipalities duly levied on all taxable property within their respective limits for the year 1898 on each dollar of value municipal taxes as follows:

The city of Jackson, 13 mills.
The town of Raymond, 3 mills.
The town of Utica, 5 mills.
The town of Learned, — mills.
The town of Hermansville, — mills.
The town of Fayette, 3 mills.
The town of Martin, — mills.
The town of Harriston, — mills.
The city of Natchez, 17½ mills.

That the mileage of said N., J. & C. division of defendant company's railroad in each of said counties respectively was duly assessed by said railroad commission for said year 1898 as follows:

In the county of Hinds, 36.803 miles.
In the county of Copiah, 4.078 miles.
In the county of Claiborne, 18.709 miles.
5 In the county of Jefferson, 25.372 miles.
In the county of Adams, 13.356 miles.

That by virtue of the statute in such case made and provided defendant company has become indebted to said several counties and to said several municipalities for current, past-due, and unpaid State, county, and municipal taxes on said property levied and assessed, as aforesaid, and for privilege taxes to said State levied and assessed, as aforesaid, for operating the same in the business of railroading for the year 1898 as follows:

In Hinds county:

Privilege tax	$552.05
State tax	2,187.10
County tax	2,018.86

In Copiah county:

Privilege tax	61.17
State tax	246.95
County tax	265.95

In Claiborne county:

Privilege tax	280.63
State tax	1,121.56
County tax	1,466.65

In Jefferson county:

Privilege tax	380.58
State tax	1,526.33
County tax	2,148.61

In Adams county:

Privilege tax	200.34
State tax	873.57
County tax	1,208.87

6 And for the said taxes to said municipalities as follows:

Jackson	$96.69
Raymond	40.54
Utica	33.28
Learned	
Hermansville	
Martin	
Fayette	16.33
Harriston	
Natchez	517.71

Copies of said assessment-rolls for said counties and municipalities are herewith filed as Exhibit A to this declaration, and, to avoid prolixity on pleading, *is* made part hereof.

That defendant company was and is indebted to said State and said several counties and municipalities in said several amounts for said State, county, municipality, and privilege taxes on and for operating said property in the State of Mississippi for the year, aggregating $50,000.00, and although said sum of money has been long since due, and although often demanded by the plaintiff for the uses aforesaid, yet defendant has hitherto failed and refused and still fails and refuses to pay said sum or any part thereof, to plaintiff's damage for the uses aforesaid $—. Wherefore he brings this suit, &c.

CRITZ, BECKETT & KIMBROUGH,
CALHOON & GREEN, P. Q.

Endorsed: Filed April 25th, 1899, 1.40 p. m. F. B. Neal, clerk.

7 *Summons.*

The State of Mississippi to the coroner of Hinds county, Greeting:

We command you hereby that you summon Yazoo & Mississippi Valley Railroad Company, having an agent in Jackson, Hinds county, Mississippi, in George R. Gordin, and J. J. Evans, of Monroe, county, Mississippi; J. D. McInnis, of Lauderdale county, Mississippi, and M. M. Evans, of Jackson county, Mississippi, composing State railroad assessors; W. T. Ratliff, sheriff and tax collector of Hinds county; Jesse Thompson, tax collector of Copiah county; R. C. McCay, tax collector of Claiborne county; C. C. Coffey, tax collector of Jefferson county; J. Duncan Baker, tax collector of Adams county, and D. P. Porter, tax collector of the city of Jackson, Mississippi, and —— ——, tax collector of the town of Raymond, Mississippi; —— ——, tax collector of the town of Utica, Mississippi, and —— ——, tax collector of the town of Fayette, Mississippi, and —— ——, tax collector of the town of Harriston, Mississippi, and —— ——, tax collector of the city of Natchez, Mississippi, and —— ——, tax collector of the town of Learned, Mississippi, and —— ——, tax collector of the town of Hermansville, Mississippi, and —— ——, tax collector of the town of Martin, Mississippi, defend*nats*, if to be found in your county, so that they be before the circuit court to be holden in and for the first district of said county, at the court-house thereof, in the city of Jackson, on the third Monday of June, 1899, to answer to the declaration of Wirt Adams, State revenue agent, plaintiff, against the said defendants, now on file in the clerk's office of said court; and have then and there this summons.

Witness the Honorable Robert Powell, judge of the seventh judicial district of said State, the second Monday of January, 1899, and seal of said court.

Issued the 25th day of April, 1899.

[SEAL.] F. B. NEAL, *Clerk.*

8 The declaration on file is founded to recover taxes, State, county, and municipal, for the year 1898 on the N., J. & C. branch of the Y. & M. V. R. R. Co.

The amount actually demanded in this suit is the sum stated in said declaration and lawful interest and costs.

Judgment will be demended at return term.

CALHOON & GREEN.
CRITZ, BECKETT & KIMBROUGH, *P. Q.*

Declaration filed when summons issued.
Attest: F. B. NEAL, *Clerk.*

I do hereby appoint Joseph Fitzgerald my special d'p'ty to execute and ret*run* this summons.

J. W. BEAL,
Coroner of Hinds County, Miss.

April 25th, 1899.

I acknowledge service of this writ this 25th day of April, 1899.

W. T. RATLIFF,
Sh'f Hinds Co., Mis.

Executed personally on the Yazoo & Miss. Valley R. R. by handing to Geo. R. Gordin, the agent of said company, at Jackson, a copy hereof this April 26th, 1899. Executed personally on D. P. Porter, Jr., collector city of Jackson, by handing him a copy hereof this 26th day of April, 1899. The other defendants not found in my county.

J. W. BEAL, *Coroner*,
By J. FITZGERALD, *S. D. C.*

9 *Petition for Removal to United States Court.*

STATE OF MISSISSIPPI,
County of Hinds, First District.

In the Circuit Court, at the June Term, 1899.

WIRT ADAMS, State Revenue Agent,
v.
YAZOO & MISS. VALLEY RAILROAD CO. ET ALS. } No. 3267.

To the Honl. Robert Powell, judge of the circuit court aforesaid:

Your petitioner, The Yazoo & Mississippi Valley Railroad Company, defendant in the above-entitled cause, respectfully shows to this honorable court that it is the only real defendants in this suit, which is of a civil nature, and that the matter in dispute in this cause exceeds the sum and value of two thousand dollars, exclusive of interest and costs.

Your petitioner further avers that this cause, as between the plaintiff and this petitioner, arises under the Constitution and laws of the United States, as your petitioner will now proceed to show:

The declaration herein filed shows on its face that the rights of property, both real and personal, which formerly appertained and belonged to the Natchez, Jackson & Columbus Railroad Company passed to and became invested in the Louisville, & New Orleans & Texas Railway Company in the year 1890; also that such rights of property, both real and personal, passed to and became invested in the defendant The Yazoo & Mississippi Valley Railroad Company in the year 1892 by the consolidation which took place at the time between said defendant and the said Louisville, New Orleans & Texas Railway Company.

The said declaration further shows that amongst the property rights so originally held by the said Natchez, Jackson & Columbus Railroad Company, and which so passed to and became invested in this defendant, The Yazoo & Mississippi Valley
10 Railroad Company, was the contract embodied in section 21 of the charter of the Mobile & Northeastern Railroad Company extended to the said Natchez, Jackson & Columbus Railroad Company by the act of August the 8th, 1870, whereby all taxes as-

sessed against the said property for and during the period of thirty years from the said 8th day of March, 1870, were appropriated and set aside to the said company by the legislature of the State of Mississippi for the payment of the construction liabilities of said railroad.

Said declaration further shows on its face that the demand therein asserted is an effort on the part of the plaintiff therein named to disregard the said contract right and to collect the taxes so appropriated and set aside, as aforesaid, under and by virtue of subsequently enacted statutes, to wit, under and by virtue of those statutes of the State of Mississippi which were and are in force at the time of the bringing of this suit, being chapter 126 of the Code of Mississippi, enacted in the year 1892, as amended by the act establishing the office of revenue agent and defining the powers thereof, enacted by the legislature of the State in the year 1894; also the provisions in the said Annotated Code of 1892 in respect to revenue, being sections 3875 to 3886, inclusive, and section 3744.

For which reason petitioner avers that the declaration shows that this suit is brought in order to enforce against the defendant The Yazoo & Mississippi Valley R. R. Co. and to collect the taxes so appropriated, as aforesaid, under subsequently enacted statutes, as aforesaid, such subsequent statutes so construed and so sought to be applied being in violation of section 10, article 1, of the Constitution of the United States, which forbids any State to pass a law impairing the obligation of a contract, and of the provisions of the fourteenth — to the Constitution of the United States, which inhabit- any State from depriving any person of property without due process of law, or denying to any person equal protection of the law.

11 Petitioner further shows that the other parties who are named in said declaration have no interest whatever in the matter about which the said declaration impleads this petitioner. The declaration shows no cause of action against them of any nature whatever, and only avers that they are made parties hereto in accordance with the statute in such — made and provided. The statute only requires said parties to be made parties to a suit of this nature in order that "if it shall appear that the failure of the tax-payer to properly pay his taxes was caused by any wilful default or negligence of the assessor or collector, judgment shall be rendered against the defaulter or defaulters for the amount of the compensation of the revenue agent." Wherefore petitioner shows, as stated above, that the said tax collectors and tax assessors are not in any way interested or connected with the matter propounded against *you* your petitioner in said declaration, nor is your petitioner in any way interested in or connected with the contingency or possible liability of the said assessors and collectors to the revenue agents for his compensation.

Your petitioner desires to remove this suit into the next circuit court of the United States in and for the southern district of Mississippi, to be holden at Jackson, in said district.

And your petitioner herewith offers good and sufficient surety for

its entering — the circuit court of the United States for the said district, on the first day of its next session, a copy of the record in this suit and for paying all costs that may be awarded by the said circuit court of the United States *and* if said court shall hold that this suit was wrongfully and improperly removed thereto.

As your petitioner therefore prays that the said surety and said bond may be accepted, and that this suit may be removed into the circuit court of the United States in such case made and provided, and that no further proceedings may be had therein in this court.

And your petitioner further avers that this application is
12 made on the first day on which, under and by virtue of the laws of the State of Mississippi or the rules of this court, your petitioner is in any way called upon or required to please or answer to the said declaration.

And your petitioner will ever pray.

MAYES & HARRIS,
Att'ys for Petitioner.

13 *Bond for Removal.*

STATE OF MISSISSIPPI, }
County of Hinds. }

In the Circuit Court, at the June Term, A. D. 1899.

WIRT ADAMS, State Revenue Agent, Plaintiff,
v.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD CO., Defendant. } No. 3267.

Know all men by these presents that we, The Yazoo & Mississippi Valley Railroad Company, as principal, and Samuel S. Carter and R. W. Millsaps, as sureties, are holden and firmly bound unto Wirt Adams, State revenue agent, in the penal sum of five hundred dollars ($500.00); for the payment — which, well and truly to be made, we bind ourselves, our successors, our heirs, representatives, and assigns, jointly and severally, firmly by these presents.

Upon condition, nevertheless, that whereas the above-named principal has filed its petition in the circuit court of the State of Mississippi in and for the county aforesaid for the removal of a certain cause pending therein, numbered 3267, wherein the said Wirt Adams, State revenue agent, is plaintiff, and the said railroad company is defendant, to the circuit court of the United States in and for the southern district of Mississippi, to be holden at Jackson, in said district:

Now, if the said principal shall enter in the said circuit court of the United States on the first day of its next session a copy of the record in said suit, and shall well and truly pay the costs that may be awarded by the said circuit court of the United States if the said court shall hold that said suit was wrongfully and improperly removed thereto, then this obligation shall be void; otherwise it shall remain in full force and virtue.

In witness whereof we have hereunto set our hands this the 19th day of June, A. D. 1899.

THE YAZOO & MISS. V. R. R. CO.,
By EDWARD MAYES, *Agent.*
SAM'L S. CARTER.
R. W. MILLSAPS.

14 *Plea.*

STATE OF MISSISSIPPI, }
Hinds County, First District. }

In the Circuit Court, to the June Term, 1899.

WIRT ADAMS, State Revenue Agent,
v.
YAZOO & MISSISSIPPI VALLEY R. R. CO. ET AL. } 3267.

Comes the defendant The Yazoo & Mississippi Valley Railroad Company, and for a further answer to the said declaration herein filed says that the said Natchez, Jackson & Columbus Railroad Company was authorized by and organized under and its railroad was constructed and equipped at a very large cost and expenditure of money under an act of the legislature of the State of Mississippi entitled "An act to incorporate the Natchez — Jackson Railroad Company," approved July 2, 1870, and a certain other act of the said legislature entitled "An act supplemental to the acts of incorporation of certain railroad companies," approved Aug. 8, 1870.

That the said twenty-first section of the act incorporating the Mobile & Northwestern Railroad Company by the said act extended to the Natchez & Jackson Railroad Company by the said act approved Aug. 8th, 1870, as part of the charter thereof, was in words and figures as follows:

"SECTION 21. Be it enacted, That in consideration of the construction of the railroads provided for herein, and of the great benefit which the State will receive in the development of its agricultural resources by means of said railroads as works of internal improvement, and also of the increased value, which will thereby be added to tye property of the State, thus enabling the State to greatly increase its revenue without additional burdensome taxation upon the people, the State hereby agrees with said company (and which agreement is irrepealable) that all taxes to which — company shall be subject for the period of thirty years, are hereby appro-
15 priated and set apart, and shall be applied to the payment of the debts and liabilities which said company may have incurred in the construction of said road, or for money borrowed by said company upon lands or otherwise to be used in constructing said road, or paying debts incurred by said company in constructing the same; and it shall be the duty of the tax collector in every county in each and every year, to give to said company a receipt in full for the amount of said taxes upon receiving from said company an affidavit made by the president or cashier of said company, that

the amount of said taxes have actually and in good faith been paid and applied by said company during the year, in payment of debts incurred or money borrowed, as aforesaid, and which receipt so given shall be in full of all taxes, county, State and municipal, to which said company shall be subject; provided, however, that whenever the profits of said company shall enable it to declare and pay to the stockholders an annual dividend of eight per cent. upon its capital stock over and above the payment of its debts and liabilities, then the appropriation of the taxes aforesaid shall cease, and said taxes shall be paid by said company to the tax collector, to be by him paid over as required by law."

That said act of 1870, supplemented by said act of Aug. 8th, 1870, was accepted by the said Natchez & Jackson Railroad Company as its charter (whose name was afterwards duly changed to the Natchez & Jackson & Columbus Railroad Company), and said railroad was constructed and equipped thereunder, and said charter did constitute a contract between said railroad company and the State of Mississippi, protected by section 10, article 1, of the Constitution of the United States against impairment by any law passed by said States, wherein and whereby it was contracted irrepealably for a period of thirty years from the approval of said act—that is, until the 21st day of July, 1900—that in consideration of the construction of the railroads provided for in said act and of the great benefit which the State would receive therefrom, as set forth in said section, the State agreed and contracted that all of the taxes to which said company should be subject should be and were appropriated and set apart and directed to be applied by said company to the
16 payment of the debts and liabilities which the said company should incur in constructing said railroad and to the repayment of moneys borrowed by said company upon lands or otherwise to be used in constructing said road, and to the payment — debts incurred by said company in constructing the same.

That the said company did, in consideration of the said charter and contract by and with said State and relying thereupon, undertake the construction and equipment of said railroad contemplated by said act, and did construct and equip the same and did continuously operate the same as contemplated by said act until March of the year 1890, at which time the said Natchez, Jackson & Columbus Railroad Company, by authority of the act entitled "An act to authorize the Natchez, Jackson & Columbus Railroad Company to sell its railroad situated in this State or to consolidate the same," approved Feb. 19, 1890, did sell and convey said railroad, with all the franchises, rights, powers, privileges, and immunities appertaining to said company to the Louisville, New Orleans & Texas Railway Company, which last-named company did thereafter continuously operate the same as contemplated in the said acts of 1870 and in the act of 1890 until the time mentioned in said declaration, to wit, until the — day of ——, 1892, as hereinafter mentioned, and this defendant, The Yazoo & Mississippi Valley Railroad Company, has operated the same since that time until the begin-ing of this suit, and in the construction thereof, conformably to the intent and mean-

ing of said act, the said Natchez, Jackson & Columbus Railroad Company did incur enormous debts and liabilities and did borrow large sums of money to be used in such construction and so used and in paying large debts incurred in constructing the same, as contemplated by said act.

That in and during the year 1898 the said Yazoo & Mississippi Valley Railroad Company did, pursuant to said section of said act and said contract of appropriartion, pay said taxes to the full extent thereof by the payment of debts and liabilities which
17 the said Natchez, Jackson & Columbus Railroad Company had incurred in the construction of said road and in payment of money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used in such construction and so used and in payment of debts incurred by said Natchez, Jackson & Columbus Railroad Company in such construction, and during the said year 1898 and in due and proper time the said Yazoo & Mississippi Valley Railroad Company delivered to the tax collectors of each and every of said counties an affidavit made by the president of said company or by the cashier thereof that the amount of said taxes had actually and in good faith been paid and applied by said company during said year 1898 in payment of debts incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of its said railroad or money borrowed by said last-named company upon lands or otherwise to be used in constructing the same; whereupon the said several tax collectors did each and every one give to defendant a receipt in full for the amount of said taxes respectively.

That on the 24th day of October, 1892, the said Louisville, New Orleans & Texas Railroad Company was merged in the said defendant, The Yazoo & Mississippi Valley Railroad Company, by the act and deed of the said two companies, as authorized by their charters, by which said merger the properties, rights, and franchises of the said Louisville, New Orleans & Texas Railway Company were transferred to and merged into those of the said Yazoo & Mississippi Valley Railway Company without creating any new company or disturbing or breaking the continuous existence of the latter company, and the said payments of taxes were made in the year 1898 by *by* the said Yazoo & Mississippi Valley Railroad Company as so constituted in and for the year 1898. A copy of the said deed is hereunto appended, marked Exhibit A, as a part of this plea; and it was by such transfer and merger and not otherwise that this defendant acquired the said property and railroads as in said declaration mentioned in the year 1892.

It is not true, as in said declaration is falsely alleged, that the said assessment of taxes was made after objections made
18 thereto by this defendant and considered and overruled by said railroad commission.

On the contrary, this defendant made no objection whatever to the said assessment, nor did said railroad commission overrule or profess to overrule any objection.

Nor is it true, as in said declaration is alleged, that this defendant

owes the said several sums of money in said declaration mentioned or any of them.

Defendant avers that this suit is brought to enforce against defendant and to collect the taxes so appropriated, as aforesaid, under subsequently enacted statutes, such subsequent statutes so construed and so sought to be applied being in violation of section 10, article 1, of the Constitution of tye United States, which forbids any State to pass a law impairing the obligation of a contract, and also of the provisions of the fourteenth amendment to the Constitution of the United States, which inhibit any State from depriving any person or property without due process of law or denying to any person the equal protection of the laws.

All of which this defendant is ready to verify. Wherefore it *it* prays judgment, etc.

MAYES & HARRIS,
Att'ys for Y. & M. V. R. R. Co.

Endorsed: Filed June 19th, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

19 EXHIBIT A TO FIRST PLEA.

Articles of Consolidation.

These articles of consolidation, made this 24th day of October, A. D. 1892, by and between the Louisville, New Orleans and Texas Railway Company, a corporation of the States of Tennessee,
19*a* Mississippi, and Louisiana, party of the first part, and the Yazoo and Mississippi Valley Railroad Company, a corporation of the State of Mississippi, party of the second part, witnesseth:

That under and by virtue of the charters of the respective parties hereto and of the laws of the respective States of Tennessee, Mississippi and Louisiana, in such case made and provided, the said parties of the first and second parts have mutually covenanted and agreed and do hereby mutually covenant and agree to and with each other, to unite, merge and consolidate their several capital stocks, corporate rights, franchises, immunities and privileges and properties of every kind, real, personal and mixed, upon the following terms and conditions, that is to say*s:*

Article I. Such consolidation shall be effected by uniting or merging the stock, property and franchises of the party of the first part with and into the stock, property and franchises of the said The Yazoo and Mississippi Valley Railroad Company, without disturbing the corporate existence of the last-named company, or the formation of any new, distinct, corporation, unless such result shall be necessary to give legal effect to this agreement; but whatever may be the legal consequence of the consolidation herein provided for, this agreement is to stand and be effective.

Article II. The corporate name of the said consolidated company shall be the Yazoo and Mississippi Valley Railroad Company.

Article III. The capital stock of the said consolidated company shall be fifteen million dollars, to be divided into one hundred and

fifty thousand shares of one hundred dollars each; but the said corporation may at any time increase or diminish the amount of its capital stock according to law.

Article IV. Every holder of the stock of either of the said companies now outstanding shall be entitled to cast one vote for each share of stock held by him at all stockholders' meetings of the consolidated company, which vote may be cast either in person or by proxy, and shall have all the rights of a stockholder of the consolidated company, as fully as if new shares of the consolidated company had been issued and exchanged therefor; and in case the consolidated company shall determine to issue — merging the 196 stock, property and franchises of the party of the — now outstanding shares of each of the constituent companies; and the remainder of the capital stock of the consolidated company shall be issued from time to time, and upon such terms and conditions as may be prescribed by the board of directors of said company.

Article V. All and singular the rights, powers, privileges, immunities and franchises, and all the railroads, real and personal estate, easements, fixtures, equipments, choses in action and property and assets of every kind, nature or description, belonging to either of the parties hereto, shall be vested in, and become the property of, the said consolidated company, without any further act, deed, conveyance or assurance being required in the premises.

Article VI. The affairs of the consolidated company shall be managed by a board of directors, which shall consist of such a number of members, not less than five, as the company may determine from time to time, each of whom shall be a stockholder, and one of them a resident of the State of Mississippi, one of Tennessee and one of Louisiana. The members shall be divided into three equal classes as nearly as practicable. Successors, to serve for the term of three years, shall be chosen for those who belong to the first class at the first annual meeting of the stockholders held after this consolidation shall have been effected; for those who belong to the second class, at the next annual meeting; and for those belonging to the third class at the next succeeding annual meeting of the stockholders. Each director successively chosen shall continue in office until his successor is elected. Vacancies in the board, caused otherwise than by expiration of the term for which the retiring director was chosen, may be filled by a vote of a majority of the directors remaining, such appointee to continue in office until the next regular election of directors by the stockholders.

The first board of directors shall be composed of the following members, divided into three classes as follows:

First class. Stuyvesant Fish, Adolphe Schreiber, W. C. Craig, Charles A. Peabody, Jr.

Second class. John W. Auchincloss, Walther Luttgen, Edward H. Harriman, J. T. Harrahan.

Third class. S. V. R. Cruger, R. P. Neeley, R. C. Shepherd, John C. Welling.

19c Article VII. The board of directors of said consolidated company shall choose one of their number president, whose term of office shall be one year, or until his successor shall be chosen and qualified. They may also appoint such other officers and agents as they may deem necessary from time to time, and prescribe their duties and compensation; and may provide, by the by-laws to be adopted, such rules and regulations relating to the affairs and business of said company as may be necessary or proper. The said board shall also have power to appoint an executive committee, of whom the president shall be one *ex officio*, who shall possess and exercise all the powers and duties of the board of directors when the board is not in session. Until otherwise ordered, the corporate seal of the said consolidated company shall be that of the Yazoo and Mississippi Valley Railroad Company.

Article VIII. The said consolidated company shall be, and the same is hereby authorized and empowered, in such manner and upon such conditions as are permitted by law, to issue its bonds and to secure the same, as well as all bonds heretofore issued by either of the constituent companies, or that have been heretofore or may be hereafter issued by any other railroad company, by mortgage or deed of trust upon all or any of its railroads, rights, franchises and property, real or personal, wherever the same may be situated, and whether the same may be owned by said company at the time this consolidation is effected or may be thereafter acquired; and may also exercise any and every other corporate right or power now vested in, or which might have been heretofore lawfully exercised by, either of said constituent companies.

Article IX. Until otherwise ordered the domicile of the said corporation, under the laws of the State of Louisiana, shall be in the parish of Orleans; and under the laws of the State of Mississippi, in the city of Jackson, in Hinds county; and the general domicile of the corporation shall be at Memphis, in the State of Tennessee.

Article X. The provisions of these articles shall be obligatory upon the successors and assigns of the respective parties hereto and shall become operative and of force from and after the 25th day of October, A. D. 1892.

In witness whereof, the parties hereto have caused their corporate names to be hereto subscribed by their respective presidents,
19d and their corporate seals to be affixed and attested by their respective secretaries, on the day and year first above written.

LOUISVILLE, NEW ORLEANS AND TEXAS RAILWAY COMPANY,

[SEAL.] By RICHARD T. WILSON, *President.*

Attest: CHARLES H. BOSHER, *Secretary.*

THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY,

[SEAL] By STUYVESANT FISH, *President.*

Attest: ALEXANDER G. HACKSTAFF, *Secretary.*

As to the Louisville, New Orleans and Texas Railway Company—
Witness:
S. TOWNSEND.
J. F. VAN NAME.
GEORGE H. TAYLOR.

As to the Yazoo and Mississippi Valley Railroad Company—
Witness:
W. E. RUTTAN,
CHAS. H. WENMAN, AND
GEORGE H. TAYLOR.

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that, on this twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Tennessee in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the Louisville, New Orleans and Texas Railway Company, and Charles H. Bosher, secretary of the same company, to me personally known and known to me to be such officers of said company, who, being by me severally duly sworn, did depose and say: That the said Richard T. Wilson was the president and the said Charles H. Bosher was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company; and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereto by like order as president and secretary of said company respectively.

19e In witness whereof, I have hereunto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.]
[SEAL.]

GEORGE H. TAYLOR,
Commissioner for Tennessee in New York and Notary Public N. Y. County.

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that, on this twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the Lousville, New Orleans and Texas Railway Company, and Charles H. Bosher, secretary of the same company, to me personally known and known to me to be such officers of said company, who being by me severally duly sworn, did depose and say: That the said Richard T.

Wilson was the president and the said Charles H. Bosher was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company; and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereto by like order as president and secretary of said company respectively.

In witness whereof, I have hereunto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] [SEAL.] GEORGE H. TAYLOR,
Commissioner for Mississippi in New York and Notary Public N. Y. County.

STATE OF NEW YORK, *City and County of New York,* } ss:

Be it remembered, that on this twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Louisiana, in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the Louisville, New Orleans and Texas Railway Company, and Charles H. Bosher, secretary of the same company, to me personally known, and known to me to be such officers of said company, who, being by me severally duly sworn, did depose and say: That the said Richard T. Wilson was the president, and the said Charles H. Bosher was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereto by like order as president and secretary of said company respectively.

19*f*

In witness whereof, I have hereunto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] [SEAL.] GEORGE H. TAYLOR,
Commissioner for Louisiana in New York and Notary Public N. Y. County.

STATE OF NEW YORK, *City and County of New York,* } ss:

Be it remembered that, on the twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Tennessee, in and for the State of New York, residing in said city and county of New York, personally appeared Stuyvesant Fish, president of the Yazoo and Mississippi Valley Railroad Company, and Alexander G. Hackstaff, secretary of the same company, to me personally known and known to me to be such officers of said company, who being by me sev-

erally duly sworn, did depose and say: That he, the said Stuyvesant Fish, was the president, and that he, the said Alexander G. Hackstaff, was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company; and that they, the said Stuyvesant Fish and Alexander G. Hackstaff, signed their names thereto by the like order as president and secretary of said company respectively.

In witness whereof, I have hereunto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] [SEAL.]

GEORGE H. TAYLOR,
Commissioner for Tennessee in New York and Notary Public N. Y. County.

19*g* STATE OF NEW YORK, *City and County of New York,* } *ss:*

Be it remembered that, on the twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally appeared Stuyvesant Fish, president of the Yazoo and Mississippi Valley Railroad Company, and Alexander G. Hackstaff, secretary of the same company, to me personally known and known to me to be such officers of said company, who being by me severally duly sworn, did depose and say: That he, the said Stuyvesant Fish, was the president, and that he, the said Alexander G. Hackstaff, was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company; and that they, the said Stuyvesant Fish and Alexander G. Hackstaff, signed their names thereto by the like order as president and secretary of said company, respectively.

In witness whereof, I have hereunto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] [SEAL.]

GEORGE H. TAYLOR,
Commissioner for Mississippi in New York and Notary Public N. Y. County.

STATE OF NEW YORK, *City and County of New York,* } *ss:*

Be it remembered that, on the twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Louisiana in and for the State of New York, residing in said city and county of New York, personally appeared Stuyvesant Fish, president of the Yazoo and Mississippi Valley Railroad Company, and Alexander G. Hackstaff, sec-

retary of the same company, to me personally known and known to me to be such officers of said company, who being by me severally duly sworn, did depose and say: That he, the said Stuyvesant Fish, was the president, and that he, the said Alexander G. Hackstaff, was the secretary of the said company that they know the corpo-
19*h* rate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company; and that they, the said Stuyvesant Fish and Alexander G. Hackstaff, signed their names thereto by the like order as president and secretary of said company respectively.

In witness whereof, I have hereunto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.]
[SEAL.]

GEORGE H. TAYLOR,
Commissioner for Louisiana in New York and Notary Public N. Y. County.

20 *Petition for Removal Denied.*

June Term, 1899.

WIRT ADAMS, State Rev. Ag't,
vs.
YAZOO & MISS. VALLEY R. R. Co. } 3267.

JUNE 22ND, 1899.

This day came on to be heard this cause on the petition of the defendant, The Yazoo & Mississippi Valley Railroad Company, for removal of this cause to the circuit court of the United States for the southern district of Mississippi, and, the court having considered the same, it is ordered and adjudged that the prayer of said petition be, and the same is hereby, denied, and said petition is hereby overruled; to which action of the court defendant petitioners excepted.

Entry of Appe-rance.

STATE OF MISSISSIPPI,
Hinds County.

In Circuit Court.

WIRT ADAMS, State Revenue Agent, Use, &c., Plaintiff,
vs.
Y. & M. V. R. R. Co., N. J. & C. DIV., Defendants. } 3267.

I, a member of the railroad commission and railroad assessor of the State of Mississippi, hereby enter my appearance in the above-styled cause, and agree that the same may be proceeded with by said revenue agent to final judgment without continuance or delay.

JNO. D. McINNIS,
Member of Railroad Commission and State Railroad Assessors.

Endorsed: Filed June 22nd, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

STATE OF MISSISSIPPI,
Hinds County.

WIRT ADAMS, State Revenue Agent, Use, &c., Plaintiff,
vs.
21 Y. & M. V. R. R. Co., N. J. & C. DIV., Defendant.

I, a member of the railroad commission and State railroad assessors for the State of Mississippi, here- enter my appearance in the above-styled cause, and agree that the same may be proceeded with by said rev. agent to final judgment without continuance or delay.

M. M. EVANS,
Member of the Railroad Commission and Railroad Assessors of Mississippi.

Endorsed: Filed June 22nd, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

STATE OF MISSISSIPPI,
Hinds County.

Circuit Court, First District.

WIRT ADAMS, State Revenue Ag't, Use, &c., Plaintiff,
vs.
Y. & M. V. R. R. Co., N. J. & C. DIV., Defendants.

I, the sheriff and tax collector of Hinds county, Miss., hereby enter my appearance in the above-styled cause, and agree that the same may be proceeded with *the* judgment by said revenue agent without continuance or delay.

W. T. RATLIFF,
Sheriff and Tax Collector of Hinds County, Miss.

Endorsed: Filed June 22nd, 1899. F. B. Neal, clerk, by W. J. Brown, D. C.

STATE OF MISSISSIPPI,
County of Hinds.

Circuit Court, Hinds County.

WIRT ADAMS, State Revenue Agent, Use, &c., Plaintiff,
vs.
22 Y. & M. V. R. R. Co., N. J. & C. DIV., Defend*nat*.

I, sheriff and tax collector of Copiah county, Miss., hereby enter my appearance in the above-styled cause, and agree that the same may be proceeded with by said revenue agent without continuance or delay.

JESSE THOMPSON,
Sheriff and Tax Collector of Copiah County, Miss.

Endorsed: Filed June 22nd, 1899. F. B. Neal, clerk, by W. J. Brown, D. C.

STATE OF MISSISSIPPI,
Hinds County.

Circuit Court, First District.

WIRT ADAMS, State Revenue Agent, Use, &c., Plaintiff,
vs.
Y. & M. V. R. R. Co., N. J. & C. DIV., Defendant-.

I, the sheriff and tax collector of Claiborne county, Miss., hereby enter my appearance in the above-styled cause, and agree that the same may be proceeded with by said revenue agent to final judgment without continuance or delay.

R. C. McCAY,
Sheriff & Tax Collector of Claiborne County, Mississippi.

Endorsed: Filed June 22nd, 1899. F. B. Neal, clerk, by W. J. Brown, D. C.

STATE OF MISSISSIPPI,
Hinds County.

Circuit Court, First District.

WIRT ADAMS, State Revenue Agent, Use, &c., Plaintiff,
vs.
Y. & M. V. R. R. Co., N. J. & C. DIV., Defendant-.

23 I, the sheriff and tax collector of Adams county, Miss., hereby enter my appearance in the above-styled cause, and agree that the same may be proceeded with by said revenue agent to final judgment without continuance or delay.

S. DUNCAN BAKER,
Sheriff and Tax Collector of Adams County, Mississippi.

Endorsed: Filed June 22nd, 1899. F. B. Neal, clerk, by W. J. Brown, D. C.

STATE OF MISSISSIPPI,
Hinds County.

WIRT ADAMS, State Revenue Agent, Use, &c., Plaintiff,
vs.
Y. & M. V. R. R. Co., N., J. & C. DIV., Defendant.

I, a member of the railroad commission and State railroad assessors for the State of Mississippi, hereby enter my appearance in the above-styled cause, and agree that the same may be proceeded with by said revenue agent to final judgment, without continuance or delay.

J. J. EVANS,
Member of Railroad Commission and State Railroad Assessors.

Endorsed: Filed June 22nd, 1899. F. B. Neal, clerk, by W. J. Brown, D. C.

STATE OF MISSISSIPPI,
Hinds County.

Circuit Court, First District.

WIRT ADAMS, State Revenue Agent, Use, &c., Plaintiff,
vs.
Y. & M. V. R. R. Co., N., J. & C. DIV., Defendants.

I, the sheriff and tax collector of Jefferson county, Miss., hereby enter my appearance in the above-styled cause, and agree that the same may be proceeded with by said revenue agent to final judgment without continuance or delay.

C. C. COFFEY,
Sheriff and Tax Collector of Jefferson County, Miss.

Endorsed: Filed June 22nd, 1899. F. B. Neal, clerk, by W. J. Brown, D. C.

Demurrer to Plea of Y. & M. V. R. R. Co.

In the Circuit Court of Hinds County, First District.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISS. VALLEY R. R. Co. ET AL. } 3267.

Demurrer to plea.

Comes Wirt Adams, State revenue agent, by attorney, and says that the plea of Y. & M. V. R. R. Co. is insufficient in law, and he therefore demurs to the same, and for grounds assigns:

1. The said plea is no defense to the action.
2. The alleged execution under said sec. 21 violated the constitution of the State of Mississippi of 1869 and was and is void.
3. The alleged exemption under said 21st section was repealed by the Code 1880, the Act- of 1886, p. 23; the Acts 1878, p. 87; of the Code 1892, and constitution of 1890.
4. The alleged exemption, if ever existent, was lost by the consolidation evidenced by Ex. A. to the declaration under constitutional 1890, sec. 1890.
5. The said plea does not aver the existence of any immunity from taxation under said 21st section or the alleged right to pay taxes by affidavit of appropriation, as alleged, in that it does not aver that the profits of said company did not enable it to declare and pay to the stockholders an annual dividend of 8% upon
25 its capital stock over and above the payment of its debts and liabilities, as provided by said sec. 21.
6. The said plea shows no right in Y. & M. V. R. R. Co. to exercise the alleged immunity under said section 21 nor to the benefit thereof by the alleged payment of the alleged debts of construction of N., J. & C. R. R. Co.
7. The said plea does not aver the legal effect of Exhibit A to the plea and made part thereof, but is contradictory thereof.

8. The said plea does not show where, in what manner, or by what authority the Louisville, New Orleans & Texas Railway Company came into being nor what the powers thereof were.

9. The alleged payment of taxes sued for by affidavit in manner and form as alleged was without authority of law.

10. Said plea shows that no objection was made by the defendant to the assessment of said taxes by the State railroad assessors, and the validity of the judgment of said State railroad assessors is not assailed. Plaintiff shows that judgment of said State railroad assessors making said assessment is conclusive of the non-existence of said alleged exemption and is *res adjudicata* thereof.

CRITZ, BECKETT & KIMBROUGH,
CALHOON & GREEN, *P. Q.*

Endorsed: Filed June 22nd, 1899. F. B. Nael, clerk, by W. J. Brown, D. C.

2nd Plea Y. & M. V. R. R. Co.

STATE OF MISSISSIPPI,
Hinds County, First District.

In the Circuit Court, June Term, 1899.

WIRT ADAMS, State Revenue Agent,
v.
YAZOO & MISS. VALLEY R. R. Co. } No. 3267.

26 Comes the defendant, The Yazoo & Mississippi Valley Railroad Company, and for a further answer to the said declaration herein filed says that the said Natchez, Jackson & Columbus Railroad Company was authorized by and organized under and its railroad was constructed and equipped at a very large cost and expenditure of money under an act of the legislature of the State of Mississippi entitled "An act to incorporate the Natchez and Jackson Railroad Company," approved July 2, 1870, and a certain other act of the said legislature entitled "An act supplemental to the acts of incorporation of certain railroad companies," approved Aug. 8th, 1870.

That the said 21st section of the act incorporating the Mobile and the Northwestern Railroad Company so referred to and extended to the Natchez & Jackson Railroad Company by the said act approved Aug. 8th, 1870, as part of the charter thereof, was in words and figures as follows:

"SECTION 21. Be it enacted, That in consideration of the construction of the railroads provided for herein, and of the great benefit which the State will receive in the development of its agricultural resources by means of said railroads as works of internal improvement, and also of the increased value, which will thereby be added to the property of the State, thus enabling the State to greatly increase its revenue without additional burdensome taxation upon the people, the State hereby agrees with said company (and which agreement is irrepealable) that all taxes to which company shall

be subject for the period of thirty years, are hereby appropriated and set apart, and shall be applied to the payment of the debts and liabilities which the said company may have incurred in the construction of said road, or for money borrowed by said company upon lands or otherwise to be used in constructing said road, or paying debts incurred by said company in constructing the same; and it shall be the duty of the tax collector in every county in each and every year, to give to said company a receipt in full for the amount of said taxes upon receiving from said company an
27 affidavit made by the president or cashier of said company that the amount of said taxes have actually and in good faith been paid and applied by said company during the year, in the payment of debts incurred or money borrowed, as aforesaid, and which receipt so given shall be in full of all taxes, county, State and municipal, to which said company shall be subject; provided, however, that whenever the profits of said company shall enable it to declare and pay to the stockholders an annual dividend of eight per cent. upon its capital stock over and above the payment of its debts and liabilities, then the appropriation of the taxes aforesaid shall cease, and said taxes shall be paid by *by* said company to the tax collector, to be by him paid over as required by law."

That said act of 1870, supplemented by said act of Aug. 8th, 1870, was accepted by the said Natchez and Jackson Railroad Company as its charter (whose name was afterwards duly changed to the Natchez, Jackson & Columbus Railroad Company), and said railroad was constructed and equipped thereunder, and said charter did constitute a contract between said railroad company and the State of Mississippi, protected by section 10, article 1, of the Constitution of the United States, against impairment by any law passed by said State, wherein and whereby it was contracted irrepealably for a period of thirty years from the approval of said act—that is, until the 21st day of July, 1900—that in consideration of the construction of the railroads provided for in said act and of the great benefit which the State agreed and contracted that all of the taxes to which said company should be subject should be and were appropriated and set apart and directed to be applied by said company to the payment of the debts and liabilities which the said company should incur in constructing said railroad and to the repayment of monies borrowed by said company upon lands or otherwise to be used in constructing said road and to the payment of debts incurred by said company in constructing the same.

28 That said company did, in consideration of the said charter and contract by and with said State, and relying thereupon, undertake the construction and equipment of said railroad contemplated by said act, and did construct and equip the same, and did continuously operate the same as contemplated by said act until March of the year 1890.

Defendant now avers that on the 8th day of Aug., 1870, the Memphis & Vicksburg Railroad Company was incorporated by the legislature of Miss. by the act entitled "An act to incorporate the Memphis & Vicksburg Railroad Company," and on the 9th day of

March, 1882, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company was incorporated by the legislature of said State by the act entitled "An act to incorporate the New Orleans, Baton Rouge, Vicksburg & Memphis Short Line Railroad Company," and that prior to March, 1890, the Louisville, New Orleans & Texas Railway Company was formed by a consolidation affected between said two last-named companies, and the Tennessee Southern Railroad Company, a railroad company incorporated by the State of Tennessee, and the New Orleans & Mississippi Valley Railroad Company, a railroad company incorporated by the State of Louisiana, all under authority of the act of the legislature of the State of Mississippi approved March 3rd, 1882, entitled "An act to authorize the Memphis & Vicksburg Railroad Company to effect a consolidation," as amended by the act of said legislature approved March 15, 1884, entitled "An act to amend an act entitled 'An act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley and Ship Island Railroad Company to effect a consolidation,' approved March 3, 1882."

Defendant now further avers that in March of the year 1890 aforesaid the said Natchez, Jackson & Columbus Railroad Company, by authority of the act entitled "An act to authorize the Natch., Jackson & Columbus Railroad Company to sell its railroad situated in this State or to consolidate the same," approved Feb. 19, 1890, did sell and convey said railroad, with all the franchises, rights, powers, and privileges and immunities appertaining to said company,
29 to the Louisville, New Orleans & Texas Railway Company; which last-named company did thereafter continuously operate the same as contemplated in the said Acts of 1870 and in the Act of 1890 until the time mentioned in said declaration, to wit, until the — day of ——, 1892, as hereinafter mentioned; and this defendant, The Yazoo & Mississippi Valley Railroad Company, has operated the same since that time until the begin-ing of this suit, and in the construction thereof, conformably to the intent and meaning of said act, the said Natchez, Jackson & Columbus Railroad Company did incur enormous debts and liabilities and did borrow large sums of money to be used in such construction and so used and in paying large debts incurred in constructing the same as contemplated by said act.

That in and during the year 1898 the said Yazoo & Mississippi Valley Railroad Company did, pursuant to said section of said act and said contract of appropriation, pay said taxes to the full extent thereof by the payment of the debts and liabilities which the said Natchez, Jackson & Columbus Railroad Company had incurred in the construction of said road and in payment of money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used in such construction and so used, and in payment of debts incurred by said Natchez, Jackson & Columbus Railroad Company in such construction, and during the said year 1898, and in due and proper time, the said Yazoo & Mississippi Valley Railroad Company delivered to the tax collectors of each and every of said counties an affidavit made by the president of said company or by the cashier thereof

that the amount of said taxes had actually and in good faith been paid and applied by said company during said year 1898 in payment of debts incurred by the said Natchez, Jackson & Columbus Railroad Company in the construction of its said railroad or money borrowed by said last-named company upon lands or otherwise to be used in constructing the same; whereupon the said several tax collectors did each and every one give to defendant a receipt in full for the amount of said taxes respectively.

30 That on the 24th day of October, 1892, the said Louisville, New Orleans & Texas Railway Company was merged in the said defendant, The Yazoo & Mississippi Valley Railroad Company, by the act and deed of said two companies, as authorized by their charters, by which said merger the property, rights, and franchises of the said Louisville, New Orleans & Texas Railway Company were transferred to and merged into those of the said Yazoo & Mississippi Valley Railroad Company without creating any new company or disturbing or breaking the continuous existence of the latter company, and the said payments of taxes were made in the year 1898 by the said Yazoo & Mississippi Valley Railroad Company so constituted in and for the year 1898. A copy of the said deed is hereunto appended, marked Exhibit A, as a part of this plea. And it was by such transfer and merger, and not otherwise, that this defendant acquired the said property and railroads as in said declaration mentioned in the year 1892.

Defendant avers that the profits of said Natchez, Jackson & Columbus Railroad Company and its assigns and successors, the Louisville, New Orleans & Texas Railway Company, and this defendant, The Yazoo & Mississippi Valley Railroad Company, or any of them, have never enabled them or any of them to pay to the stockholders entitled to such dividends under said acts of the legislature an annual dividend of eight per centum upon the capital stock mentioned in said acts of the legislature over and above the payment of the debts and liabilities contemplated by said acts of the legislature.

It is not true, as in said declaration is falsely alleged, that the said assessment of taxes was made after objections made thereto by this defendant and considered and overruled by said railroad commission.

On the contrary, this defendant made no objection whatever to the said assessment, nor did said railroad commission overrule, or profess to overrule, any objection.

Nor is it true, as in said declaration is alleged, that this defendant owes the said several sums of money in said declaration

31 mentioned, or any of them.

Defendant avers that this suit is brought to enforce against defendant and to collect the taxes so appropriated, as aforesaid, under subsequently enacted statutes, such subsequent statutes so construed and so sought to be applied being in violation of section 10, article 1, of the Constitution of the United States, to pass a law impairing the obligation of a contract, and also of the provisions of the fourteenth amendment to the Constitution of the United States,

which inhibit- any State from depriving any person of property without due process of law or denying to any person the equal protection of the laws.

All of which this defendant is ready to verify. Wherefore it prays judgment, etc.

MAYES & HARRIS,
Attorneys for Y. & M. V. R. R. Co.

Endorsed: Filed June 24th, 1899. F. B. Neal, clerk.

3rd Plea Y. & M. V. R. R. Co.

STATE OF MISSISSIPPI, }
County of Hinds, First District. }

In the Circuit Court, at the June Term, 1899.

WIRT ADAMS, State Revenue Agent,
v.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS. } No. 3267.

Third plea.

And for a further plea to said declaration, leave of the court being first obtained, come the defendants, The Yazoo & Mississippi Valley Railroad Company and The Illinois Central Railroad Company, and as to all the taxes herein demanded say:

1. That the said Louisville, New Orleans & Texas Railway Company was authorized by and organized under an act of the legislature of the State of Mississippi entitled "An act to authorize
32 the Memphis & Vicksburg Railroad Company and the Mississippi Valley and Ship Island Railroad Company to effect a consolidation," approved March 3rd, 1882, as amended by the act of March 15, 1884, entitled "An act to amend an act entitled 'An act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley and Ship Island Railroad Company to effect a consolidation,' approved March 3rd, 1882."

The Natchez & Jackson Railroad Company was incorporated by the legislature of the State of Mississippi by an act entitled "An act to incorporate the Natchez & Jackson Railroad Company," approved July 21st, 1870, the name of said company being subsequently by legislative authority changed to the Natchez, Jackson & Columbus Railroad Company, and afterwards, on the 8th day of August, 1870, by an act of the legislature entitled "An act supplemental to the act of incorporation of certain railroad companies," approved Aug. 8th, 1870, the provisions of the twenty-first section of an act entitled "An act to incorporate the Mobile & Northwestern railroad," approved July 20, 1870, were extended to the said Natchez & Jackson Railroad Company as a part of its charter.

That in March of the year 1890, by authority of an act of the legislature passed in that year to that end, the said Natchez, Jackson & Columbus Railroad Company sold and conveyed all of its

railroad and railroad property to the said Louisville, New Orleans & Texas Railway Company, with the said provision of section twenty-one aforesaid thereunto appertaining.

2. That on or about the 24th day of October, 1892, the said Louisville, New Orleans & Texas Railway Company was merged in the said defendant, The Yazoo & Mississippi Valley Railroad Company, by the act and deed of the said two companies, as authorized by their respective charters, continuing the existence of the last-named company unbroken and not forming any new company; that by said merger the said Louisville, New Orleans & Texas Railway Company carried into the company so constituted as part of its property a certain line of railroad extending from the city of Jackson to the city of Natchez, in said State, and which said
33 Louisville, New Orleans & Texas Railway Company had purchased in the year 1890 by authority of an act of the legislature passed in that year to that end from the Natchez, Jackson & Columbus Railroad Company, whereby said railroad became, in October, 1892, property of this defendant, The Yazoo & Mississippi Valley Railroad Company, as constituted by said merger. Afterwards, to wit, in January, 1893, one Lambert, sheriff and tax collector of Adams county, in said State, undertook to collect taxes, both privilege and — valorem, for the year- 1891 and 1892, on such railroad property in Adams county notwithstanding the fact, which was the fact, that the legislature of the State of Mississippi had by the act approved August 8th, 1870, and entitled "An act supplemental to the acts of incorporation of certain railroad companies," extended to the said Natchez, Jackson & Columbus Railroad Company the full privilege of the section numbered twenty-one of the act of July 20th, 1870, entitled "An act to incorporate the Mobile & Northwestern Railroad Company," and said privilege had by said act of 1890 and the said sale thereunder passed with said railroad to said Louisville, New Orleans & Texas Railway Company, and by said merger of 1892 to the said defendant, The Yazoo & Mississippi Valley Railroad Company.

Thereupon the defendant The Yazoo & Mississippi Valley Railroad Company and the said Natchez, Jackson & Columbus Railroad Company filed in the chancery court of Adams county their two bills in chancery, uniting in the same, in one of which they enjoined the said sheriff from collecting the said privilege taxes and in the other they enjoined him from collecting the said ad valorem taxes. Said bills, amongst other things, set up the facts herein stated and set up and insisted upon the identical deed of merger and exhibited the same therewith which is set up in and exhibited with this plea. The sheriff demurred to said bills and the chancellor sustained said demurrers and dismissed said bills, from which judgments this said defendant, The Yazoo & Mississippi Valley Railroad Company,
34 and the said Natchez, Jackson & Columbus Railroad Company prosecuted their appeals to the supreme court of said State.

On said appeals the State of Mississippi appeared formally and was represented by the Hon'l Frank Johnston, the attorney general of the State, who took charge of the case and argued the same both orally

and by written brief. In said litigation and on said appeal the same identical questions and points raised herein were involved and were presented and were decided as to the effect of the said merger of October 24th, 1892, between the said Louisville, New Orleans & Texas Railway Company and the Yazoo & Mississippi Valley Railroad Company. It was contended that as to the said taxes of both 1891 and 1892 the privilege of said section twenty-one had been lost by said sale of 1890, and even if not so, so far as the taxes for 1892 were concerned, the said privilege was lost by said merger of 1892; that such merger created a new corporation, which, being created under the constitution of 1890, became subject to its provisions about taxation of corporate property and could not take the said privilege, and in such cases the said supreme court adjudged and finally decided that the said deed and merger of 1892 did operate only by way of merger, and that the existence of the original Yazoo & Mississippi Valley Railroad Company of 1882 was not extinguished thereby, and that no new company was formed thereby, and that the same was not in any way affected by the constitution of 1890, and that the said privilege was not lost thereby. To said litigation and adjudication the said State of Mississippi was a party, being represented in the first instance by its duly authorized officer, the sheriff and tax collector, who was by law authorized to recover taxes by suit, and in the said supreme court by the attorney general, who appeared for the State avowedly, and this defendant, The Yazoo & Mississippi Valley Railroad Company, being one of the *wto* litigants adverse to the State, the said other railroad company being in fact only a formal party to cover a doubt entertained as to which company was the proper one to tender the statutory affidavits
35 under said section twenty-one. Said decision and judgment was and is *res adjudicata* as against said State and all of its municipal subdivisions in questions of taxation, first, as to the constitutionality of the said section five of the act of 1882 (section 21 aforesaid), and, secondly, as to the effect of said merger, and, thirdly, of the effect of said merger of 1892 under the said constitution of 1890, and it is hereby pleaded as such.

And the decision of the said supreme court in the case of Adams, State revenue agent, *v.* The Yazoo & Miss. R. R. Co., rendered on the said 20th day of June, 1898, whereby it was declared that said merger of 1892 did form a new company and did cause the loss of said privilege, and the attempted overruling of said Lambert case, and the attempt thereby to enforce the collection of the taxes herein sued for, all under legislation of the State enacted subsequently to the extension of said section twenty-one to the defendant The Yazoo & Miss. Valley Railroad Company in 1882, so far as it embraces that question, are violative of the rights of the said defendants, The Yazoo & Mississippi Valley Railroad Company and The Illinois Central Railroad Company, secured by the fourteenth amendment to the Constitution of the United States, in that they are an effort to deprive said companies of their property without due process of law and to deprive said companies of the equal protection of the laws; also they are an effort to impair the obligation

of the said contract of merger and all of the contracts made since said merger by said company so constituted, by which it is bound or by which others were and are bound to it, and into which contracts the *anture* of said company so constituted enters as an element of their obligation.

A copy of said deed of merger is hereunto attached, marked Exhibit 1, and is made a part of this plea.

36 Copies of said injunction proceedings against the said Lambert, sheriff, etc., are hereunto attached, marked Exhibits 2 and 3 respectively, and are made parts of this plea.

Defendants aver that the profits of said Louisville, New Orleans & Texas Railway Company and of its successor, this defendant, The Yazoo & Mississippi Valley Railroad Company, or either of them, have never enabled them to pay to the stockholders entitled to such dividends under said acts of the legislature an annual dividend of eight per centum upon the capital stock mentioned in said acts of the legislature over and above the payment of the debts and liabilities contemplated by said acts of the legislature.

It is not true, as in said declaration is falsely alleged, that on or about October 24th, 1892, or at any other time prior to the institution of this suit, the railroads and property of the Louisville, New Orleans & Texas Railway Company became the property of the defendants and *has* ever since been and still *is* owned and operated and controlled by them; but, on the contrary, the said property and railroads became the property of this defendant, The Yazoo & Mississippi Valley Railroad Company, alone, and *has* ever since been and still *is* owned and operated and controlled by it alone; nor is it true that such assessment was made after objections heard and considered; no objections were made to such assessment.

Nor is it true, as in said declaration is alleged, that these defendants or either of them owe the said several sums of money in said declaration mentioned, or any of them.

That in and during the year 1898 the said Yazoo & Mississippi Valley Railroad Company did, pursuant to said section of said act and said contract of appropriation, pay said taxes to the full extent thereof by the payment of debts and liabilities which the said Louisville, New Orleans & Texas Railway Company had incurred in the construction of said road and in payment of money borrowed

37 by said Louisville, New Orleans & Texas Railway Company in the construction of its said railroad or money borrowed by said last-named company upon land or otherwise to be used in constructing said road or paying debts incurred by said named company in constructing the same. Whereupon the said several tax collectors did each and every one give to defendant a receipt in full for the amount of said taxes respectively.

All of which defendants are ready to verify. Wherefore they pray judgment, etc.

MAYES & HARRIS,
Att'ys for Y. & M. V. R. R. Co. and I. C. R. R. Co.

Endorsed: Filed July 3rd, 1899. F. B. Neal, clerk, by W. J. Brown, D. C.

38 EXHIBIT 2 TO 3RD PLEA.

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No. 1216.

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Summons attached.

39 STATE OF MISSISSIPPI, *Adams County.*

Pleas before the Honorable Claude Pintard, chancellor of the fourth chancery court, district of the State of Mississippi, at a term of court begun, convened, and held at the court-house, in the city of Natchez, county of Adams and State of Mississippi, on Monday, the sixth day of March, in the year of our Lord one thousand eight hundred and ninety-three.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY ET AL.
vs.
JAMES W. LAMBERT, Sheriff and Tax Collector of Adams County, Mississippi.

Be it remembered that heretofore, to wit, on the 9th day of January, A. D. 1893, the complainants, by their solicitors, Will T. Martin and Yerger and Percy, filed their certain bill of complaint, with Exhibits "A," "D," "E," and "H" thereto, in the office of the

chancery clerk, the said bill and exhibits being in the words and figures following, to wit:

STATE OF MISSISSIPPI,
Adams County.

In Chancery, to March Term, 1893.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY and The Yazoo & Mississippi Valley Railroad Company, Corporations Duly Incorporated under the Laws of the State of Mississippi and Now Existing and Having Their Domicile in said State, Complainants,

vs.

JAMES W. LAMBERT, Sheriff and Tax Collector of Adams County, Mississippi, a Citizen of said County and State, Defendant.

To the honorable chancery court of Adams county, Mississippi:

Complainants show to the court that on the 21st day of August, 1870, by act of the legislature of said State, duly enacted and approved as required by the laws of said State, the Natchez & Jackson Railroad Co. was duly and legally incorporated and by said act of incorporation was granted authority and empowered to construct & finally complete a single or double railroad or way from the city of Natchez, in said county of Adams, to the city of Jackson, in the county of Hinds, in said State; that on the 23rd day of February, 1872, by acts of the legislature of said State, enacted and approved as required by the laws of said State, the charter of the Natchez & Jackson Railroad Company was so amended as to authorize said company, at its pleasure, to adopt the name and style of the Natchez, Jackson & Columbus Railroad Company, and to build such branches and feeders as might be deemed practicable or necessary and to continue its main line from Jackson to Columbus, Mississippi; that by resolution of the board of directors of said Natchez and Jackson Railroad Company, duly passed, it was determined to accept the privilege granted to that company to change its name to that of the Natchez, Jackson & Columbus Railroad Company and the change was made and acted on; that on the 20th day of July, A. D. 1870, by act of the legislature of said State, duly enacted and approved according to law, the Mobile and Northwestern Railroad Company was incorporated and in the charter of the last-named company there is, among other things, section 21: "*So* it further enacted, that in consideartion of the construction of the railroads provided for herein and of the great benefit which the State will receive, in the development of its agricultural resources, by means of said railroad, as works of internal improvement and also of the increased value which will thereby be added to the property of the State, thus enablin- the State to greatly increase its revenue, — additional or burdensome tax-tion on the people *of* the State, hereby agrees with said company (which agreement is repealable) that all taxes to which said company shall be subject for the period of 30 years, are hereby appropriated and set apart,

and shall be applied to the payment of the debts and liabilities which the said company may have incurred in the construction
41 of said road, or for money borrowed by said company upon lands, or otherwise, to be used in constructing said road, or paying debts incurred by said company in constructing the same, and it shall be the duty of the tax collector, in every county, in each and every year, to give to said company a receipt in full for the amount of said taxes, upon receiving from said company an affidavit, made by the president or cashier of said company, that the amount of said taxes have actually and in good faith been paid and applied by said company, during the year in payment of the debts incurred, or money borrowed as aforesaid, and which receipt shall be in full of all taxes, county, State and municipal, to which said company shall be subject: Provided, however, that whenever the profits of said company shall enable it to declare and pay to the stockholders, an annual dividend of eight per cent., on its capital stock, over and above the payment of its debts and liabilities, then the appropriation of the taxes aforesaid shall cease and said taxes shall be paid by said company to the tax collector to be by him paid over as required by law."

That on the 8th day of August, A. D. 1870, by an act of the legislature of said State enacted and approved as by law required, supplemental to the acts of incorporation of certain railroad companies, the provisions of said section 21 of the act incorporating said Mobile & Northwestern Railroad Company were made to apply to the following railroad companies, to wit, the Memphis & Vicksburg Railroad Company, the Vicksburg, Yazoo Valley & Grenada R. R. Co., the Canton & Vicksburg R. R. Co., the Natchez & Jackson R. R. Co., the Meridian & Red River R. R. Co., the Ship Island, Mississippi and Paducah R. R. Co., the Elyton & Aberdeen R. R. Co., the Grenada, Louisville & Meridian R. R. Co., and the Greenville & Rolling Fork R. R. Co., and the charters of these companies were so amended by said act of Aug. 8, A. D. 1870, as to confer upon them all the rights, privileges, immunities, and franchises granted by the act of incorporation of said Mobile and Northwestern Railroad Company as set forth by and embraced in said 21st section
42 thereof; that on the 5th day of March, 1878, the legislature of the State of Mississippi, by an act supplemental to an act entitled "An act supplemental to the act of incorporation of certain railroad companies," approved Aug. 8, 1870, and which said act was enacted and approved according to the laws of said State, made all the provisions of said 21st section of the act entitled "An act to incorporate the Mobile & Northwestern Railroad Company" apply to the Natchez, Jackson & Columbus Railroad Company, — the charter which was so amended by said act of March 5th, 1878, as to confer upon said Natchez, Jackson & Columbus Railroad Company all the rights, privileges, immunities, and franchises theretofore granted *are* intended to be granted by and embraced in the 21st section of said act entitled "An act to incorporate the Mobile & Northwestern Railroad Company," and by said act all taxes, State, county, and municipal, theretofore levied and assessed or thereafter to be

levied and assessed upon the property of the Natchez, Jackson & Columbus Railroad Company, were by the State of Mississippi and by the provisions of said act appropriated and set apart, and were to be applied in the manner and for the purposes mentioned in said 21st section of the act incorporating the Mobile & Northwestern Railroad Company, and that said appropriation and application *was* to continue for 30 years from the 8th day of August, A. D. 1870; that on the 19th day of February, A. D. 1890, the legislature of the State of Mississippi by an act on that date, enacted and approved according to the laws of said State, authorized the Natchez, Jackson & Columbus Railroad Company to sell all or any part of its railroad and other property situated in the State of Mississippi, together with all franchises, rights, privileges, and immunities, unto said company belonging.

Complainants further show that on the 18th day of August, 1881, the Tennessee Southern Railroad Company was duly and regularly incorporated under and by virtue of the laws of the State of Tennessee; that on the 8th day of August, 1870, the Vicksburg and Memphis Railroad Company, and on the 9th day of March,
43 1882, the New Orleans, Baton Rouge, Vicksburg and Memphis Railroad Company *was* duly and regularly incorporated under and by virtue of the laws of the State of Mississippi, and that on the 17th day of September, 1881, the New Orleans & Mississippi Valley Railroad Company was duly and regularly incorporated under and by virtue of the laws of the State of Louisiana.

Complainants further show that by an act of the legislature of the State of Mississippi approved March 3rd, 1882, entitled An act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley and Ship Island Railroad Company to effect a consolidation, the Memphis and Vicksburg and the Mississippi Valley and Ship Island Railroad Company were authorized and empowered to consolidate with each other or any other railroad company or companies that had been incorporated under the laws of the State of Mississippi or any other State, and so that all the companies so consolidated should be merged into and become one company, and by said act it was provided that the company so formed by said consolidation should be deemed and held to be a corporation created by the laws of the State of Mississippi, and should have, enjoy, and possess all the rights, ways, and privileges, franchises, property, grants, and immunities which at the time of the passage of the act were possessed by the companies that might enter into such consolidation, as fully as though the same were confer-ed specially in said act, and to that end the charters of the said consolidate- companies should be taken and held as part of said act authorizing the Memphis & Vicksburg Railroad Company and the Mississippi Valley & Ship Island Railroad Company to effect a consolidation; that subsequent to the passage of said last-named act an amendment thereto was passed by the legislature of the State of Mississippi, which amendment is entitled "An act to amend an act entitled 'An act to authorize the Memphis & Vicksburg R. R. Company and the Mississippi Valley and Ship Island R. R. Company to

effect a consolidation,' approved March 3rd, 1882;" that said amendatory act was approved March 10th, 1882, and authorized and empowered the Memphis & Vicksburg R. R. Co. and any other
44 railroad company or companies incorporated under the laws of this State to consolidate in the manner and upon the terms and conditions and with rights and privileges and immunities in the said act mentioned with each other or any other railroad company or companies incorporated or organized under the laws of any other State or States, and that such consolidation might be so effected, whether the Mississippi Valley & Ship Island Railroad Company became a party to such consolidation or not; that under and by virtue of the statutes of the respective States of Mississippi, Tennessee, and Louisiana in such cases made and provided, and in consideration of the mutual undertaking-, covenants, and agreements then entered into by said companies, the Tennessee Southern Raulroad Company, created as aforesaid and then existing under and by virtue of the laws of the State of Tennessee, & the Memphis & Vicksburg Railroad Company, a corporation created as aforesaid and then existing under and by virtue of the laws of the State of Mississippi; the New Orleans, Baton Rouge, Vicksburg and Memphis Railroad Company, a corporation created as aforesaid and then existing under and by virtue of the laws of the State of Mississippi, and the New Orleans and Mississippi Valley Railroad Company, a corporation created as aforesaid and then existing under and by virtue of the laws of the State of Louisiana, entered into and effected the consolidation of each of said companies into one railroad company, to be thereafter known as the Louisville, New Orleans & Texas Railway Company, and that into said consolidated company *has* merged and consolidated the several capital stocks, franchises, grants, immunities, privileges, properties, rights of way, and all property, real, personal, and mixed, of the several companies as hereinbefore mentioned as entering into said consolidation, as shown by a certified act of consolidation filed herewith, marked Exhibit "A," and prayed to be taken and considered as part of this bill.

That in pursuance of said act of Feb'y 19, 1890, hereinbefore refereed to, the said Natchez, Jackson & Columbus Railroad
45 Company did on the 5th day of March, 1890, by deed duly executed and delivered, sell to the Louisville, New Orleans & Texas Railroad Company and running from the city of Natchez, in the county of Adams, to the city of Jackson, in the county of Hinds, in the State of Mississippi, together with all rights, powers, privileges, and immunities possessed by said Natchez, Jackson & Columbus Railroad Company as to said property so sold as aforesaid, and in which rights, powers, privileges, and immunities, complainants charge, was embraced the right to have the president or cashier of the Louisville, New Orleans & Texas Railway Company or its successors or assigns make the affidavit as required by sec. 21st of the act incorporating the Mobile & Northwestern Railroad Company, shewing the payment of the taxes then due or thereafter to become due on the property so sold, as aforesaid, by the Natchez, Jackson &

Columbus Railroad Company and the payment of the debts incurred by said Natchez, Jackson & Columbus Railroad Company and used by it in the construction of the railroad built by it from Natchez to Jackson, Miss., and also the right to have said taxes applied to the payment of said debts so incurred in the construction of the railroad aforesaid.

Complainants aver that said sale and conveyance to said Louisville, New Orleans & Texas Railway Company by said Natchez, Jackson & Columbus Railroad Company was made to said Louisville, New Orleans & Texas Railway Company, subject to an indebtedness of the selling company, as evidence by its bonds of one million two hundred and fifty thousand dollars, and that said indebtedness was incurred by said Natchez, Jackson & Columbus Railroad Company in the construction of its said railroad from Natchez to Jackson, and the said sum of one million two hundred and fifty thousand dollars was used in the construction of its said road by said Natchez, Jackson & Columbus Railroad Company, the road so consolidated being that sold, as aforesaid, to said Louisville, New Orleans and Texas Railway Company, and that by section
46 25 of an act of the legislature of the State of Mississippi entitled "An act to incorporate the New Orleans, Vicksburg & Memphis Railroad Company," approved March 9th, 1882, the Louisville, New Orleans and Texas Railway Company was authorized to purchase the property, rights, powers, privileges, and immunities of the Natchez, Jackson & Columbus Railroad Company from it, as hereinbefore set forth.

Complainants further show and aver that under charter granted to it the Natchez, Jackson & Columbus Railroad Company constructed in Adams county, Mississippi, fourteen & $\frac{125}{1000}$ miles of railroad, and that these fourteen and $\frac{125}{1000}$ miles *was* a part of that property included in the sale and conveyance by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company, as hereinbefore set forth.

Complainants state and expressly charge that in the transfer and sale, as aforesaid, by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company the franchises possessed by the Natchez, Jackson & Columbus Railroad Company of being a corporation was not sold and did not pass to the Louisville, New Orleans and Texas Railway Company by the sale aforesaid, and that the corporate existence of said Natchez, Jackson & Columbus Railroad Company since said sale to the Louisville, New Orleans and Texas Railway Company still exists and is intact & in full force, and that the stockholders of the Natchez, Jackson & Columbus Railroad Company since said sale to the Louisville, New Orleans and Texas Railway Company have held meetings and elected officers as provided in the charter thereof; that the action of the legislature in extending the provisions of the 21st section of the act incorporating the Mobile & Northwestern Railroad Company to the several railroad companies named in act of 1870 and hereinbefore set forth was an inducement held out by the State of Mississippi to the incorporators named in the charters of said companies and their

associates to invest their money in the State of Mississippi, and under said charters to construct railroads therein; that the induce-
47 ment so held out by said State to the Natchez, Jackson & Columbus Railroad Company was accepted by said company and acted on in good faith, and under its charter and the several amendments thereof that company constructed a railroad in the State of Mississippi from Natchez to Jackson, 98¾ miles in length, and that thereby the charter originally incorporating the Natchez, Jackson & Columbus Railroad Company and the several amendments thereto and the provisions, privileges, and immunities contained in the said 21st section of the act incorporating the Mobile & Northwestern Railroad Company and made part of the charter of the Natchez, Jackson & Columbus Railroad Company, as aforesaid, became a contract between the State of Mississippi and the Natchez, Jackson & Columbus Railroad Company, which is repealable and inviolable.

Complainants further state that on the faith of said contract and the provisions of the charter incorporating the Natchez, Jackson & Columbus Railroad Company, and the several amendments thereto, and the privileges granted by and the provisions contained in said 21 section of the act incorporating the Mobile & Northwestern Railroad Company, the Natchez, Jackson & Columbus Railroad Company invested its capital in the construction of the line of said road from the city of Natchez to the city of Jackson, as aforesaid, and has since the construction of said railroad employed its capital in the operation and maintenance thereof, relying on said contract & reposing in the belief that the taxes to which it was subject would be appropriated by the State of Mississippi to the payment of its debts and liabilities incurred in the construction of said railroad, and as provided for by said section 21 of the act incorporating said Mobile and Northwestern Railroad Company, and that said contract and agreement on the part of the State of Mississippi went far beyond the mere privilege of an exemption from taxation, the State having solemnly agreed in said contract and by the acts of the legislature aforesaid that if said company should construct a railroad, as provided for in its charter and the amendments thereto, and
48 should incur debts and liabilities in so doing, that unless the earnings of said company should entitle it to declare and pay to its stockholders a dividend of eight per cent. upon its capital stock over and above its liabilities, that the taxes to which it was subject for the term of thirty years from the date of its incorporation, in 1870, should be appropriated by the State of Mississippi to the payment of the debts and liabilities incurred by the company in building said road.

Complainants further show and state that by the sale and conveyance of the said road from Natchez to Jackson, Miss., by the Natchez, Jackson & Columbus Railroad Company, together with the privileges and immunities thereunto belonging, the Louisville, New Orleans and Texas Railway Company became entitled to have the taxes on the property so sold to it as aforesaid by the Natchez, Jackson & Columbus Railroad Company in the construction of said railroad so sold as aforesaid.

Complainants further show that on the 17th day of February, 1882, by an act of the legislature of the State of Mississippi, the Yazoo & Mississippi Valley Railroad Company was incorporated, and that it is now an existing corporation under the laws of said State, havings its domicile therein; that on the 25th day of October, 1892, the Louisville, New Orleans and Texas Railway Company was merged into and consolidated with the Yazoo & Mississippi Valley Railroad Company, and that by said merger and consolidation the capital stock, franchises, grants, privileges, immunities, properties, rights of way, and all property, real, personal, and mixed, theretofore belonging to said Louisville, New Orleans and Texas Railway Company, *was k*erged into and became the property of the Yazoo & Mississippi Valley Railroad Company, all of which will fully appear by reference to certific*ate* copy of said act of consolidation to be filed with bill and marked Exhibit C and prayed to be taken as part of this bill; that the said merger and consolidation between the said railroad companies last named was authorized by the
49 charters of each of said companies and was duly, regularly, and legally made and entered into by said companies.

Complainants charge that by reason of said merger and consolidation last above named the Yazoo & Mississippi Valley Railroad Company thereby became entitled to and was immediately upon said merger and consolidation possessed -- all the rights, powers, privileges, and immunities theretofore belonging to said Natchez, Jackson & Columbus Railroad Company and the said Louisville, New Orleans and Texas Railway Company, and in which said rights, powers, privileges, and immunities, complainants charge, was embraced the right to have the president or cashier of the Yazoo & Mississippi Valley Railroad Company or its successors or assigns make the affidavit required by section 21 of the act incorporating the Mobile & Northwestern Railroad Company, showing the payment and application of the taxes then due or to become thereafter due on the property sold, as aforesaid, by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, to the payment of the debts of the Natchez, Jackson & Columbus Railroad Company incurred by it and used by it in the construction of the railroad from Natchez to Jackson, Mississippi, and to have said taxes applied to the payment of the debts and liabilities incurred by said Natchez, Jackson & Columbus Railroad Company in the construction of said railroad from Natchez to Jackson, Mississippi.

Complainants further show and charge that in the years 1891 & 1892 the Natchez, Jackson & Columbus Railroad Company and the Louisville, New Orleans and Texas Railway Company actually and in good faith paid and applied the amount of the taxes to which said Natchez, Jackson & Columbus Railroad Company was subject and to which the said Louisville, New Orleans and Texas Railway Company was subject on the property purchased by it from the Natchez, Jackson & Columbus Railroad Company for each of said years 1891-1892 in the payment of the debts and liabilities incurred by said Natchez, Jackson & Columbus Railroad Company
50 in the construction of said railroad from Natchez to Jackson, Mississippi, and in the said county of Adams, to be used and

which was used in the construction of said road or in paying debts incurred in constructing the same, and that the profits of neither the Natchez, Jackson & Columbus Railroad Company nor of the Louisville, New Orleans & Texas Railway Company nor of the Yazoo & Mississippi Valley Railroad Company have been sufficient to enable said companies or either of them to declare and pay to the stockholders thereof an annual dividend of 8 per cent. or any per cent. on the capital stock of said companies or either of them over and above the payment of the debts and liabilities of said companies and each of them, and that complainants have caused to be made by the proper officer of each of the said companies affidavits setting forth said facts, and in strict compliance with the requirements of section 21 of the act incorporating the Mobile & Northwestern Railroad Company, hereinbefore fully set forth, and have presented *sale* affidavits to the defendant in this suit, who is the sheriff and tax collector of Adams county, Mississippi, and have demanded of him, as such collector, sheriff, and tax collector, a receipt in full for all taxes, State, county, and municipal, to which said companys or either of them were subject for the years 1891–1892, on property situated in said county of Adams, Mississippi, and that notwithstanding the payment and application of the amount of taxes to the debts and liabilities of the Natchez, Jackson & Columbus Railroad Company, as hereinbefore set forth, and the demand for the receipt in full for all taxes to which the companies heretofore mentioned were or are subject in said county of Adams for the years 1891–1892, the said defendant, not regarding the rights of complainants, refused and still refuses to comply with said demand.

The following is the amended bill of the complainants and is embraced within the following parenthesis drawn with red ink:

(The po-tion of this transcript within the red-ink-line parenthesis contains the amendment to bill filed by complainants February 24, 1893.

51 Attest: ALLISON H. FOSTER, *Clerk*.

Chancery Court, Adams County, Mississippi.

THE NATCHEZ, JACKSON & Columbus Railroad Company & The Yazoo & Mississippi Valley Railroad Company *vs.* JAS. W. LAMBERT, Sheriff and Tax Collector.	No. 1216. Amendment to Bill.

To be inserted at the end of line 29, page 19, of the bill herein.

Complainants would further show that after the purchase of the property of the N., J. & C. R. R. Co. *Company* by the L., N. O. & T. R'w'y Co., as hereinbefore stated and as shown by the deed from said N., J. & C. R. R'd Co. to said Louisville, New Orleans and Texas Railway Company dated —— 28th, 1890, that the line of railroad purchased from said Natchez, Jackson & Columbus Railroad Company by said

L., N. O. & T. R'way Company running from the city —, in the county of Adams, to the city of Jackson, in the county of Hinds, of the State of Mississippi, was operated and maintained as a separate division, and that the accounts of the receipts, expenditures, and disbursements of said division of railroad running from said city of Natchez to said city of Jackson, as aforesaid, were so kept by the officers of said L., N. O. & T. R'way Co. as to enable them at all times to ascertain and furnish a full, complete, and accurate statement of the receipts received from the operation and maintenance of said division of railroad, and the disbursements and expenditures made by said company in the maintenance and operation of said division of railroad, and of the gross and net earnings of said line of railroad constituting said division and running from said city of Natchez to said city of Jackson, and that at the time of purchasing said line of railroad running from the city of Natchez to the city of Jackson, as aforesaid, from said Natchez, Jackson & Columbus Rail-
52 road Company and at the time of making and filing the copies of the affidavits herewith filed as exhibits to this bill of complaint, and showing the application of taxes to which said company was subject to the payment of the debts and liabilities incurred by said Natchez, Jackson & Columbus Railroad Company in the construction of said road running from said city of Natchez to the said city of Jackson, as aforesaid, there was a contract existing between the State of Mississippi and said Natchez, Jackson & Columbus Railroad Company and said Louisville, New Orleans and Texas Railway Company, authorizing each of said companies and empowering them under said contract to apply to the payment of the debts and liabilities which said companies had incurred in the construction of railroads in the State of Mississippi all taxes to which said companies or either of them were subject, and that the taxes sought to be collected by defendant on the line of railroad from Natchez to Jackson, sold, as aforesaid, by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company, had, prior to the attempt of defendant to collect said taxes, been applied by complainants, as they were authorized by law to do, to the debts incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of the line of railroad from the city of Natchez to the city of Jackson, sold as aforesaid by the Natchez, Jackson & Columbus Railroad Company to said Louisville, New Orleans & Texas Railway Company.

Agreed that this amendment shall be now filed to take effect as if it had been embraced in the original bill herein.

Natchez, Feb'y 24, 1893.

K. PALMER LANNEAU,
Sol. for Def't.)

Complainants charge that defendant as sheriff and tax collector of said Adams county is & was by law required to accept said affidavits and give a receipt in full for the taxes hereinbefore mentioned, as well as any privilege tax that has been or might be demanded by said State of Mississippi, or to which complainants or the Louis

ville, New Orleans & Texas Railway Company was or might
53 be subjected on the part of said railroad operated in said Adams county, Mississippi; that the payment and application of said taxes, the making of said affidavits, the presentation thereof to defendant, and his refusal to deliver said tax receipts, as required by said section 21 of the act incorporating the Mobile & Northwestern Railroad Company, will all fully appear by an examination of a true copy of said affidavits made and presented, as aforesaid, together with tye endorsement of the defendant thereon, the originals whereof are now on file in your honor's court, D, E, F, & G to bill of complaint in the suit filed by your complainants *vs.* defendant to enjoin collection of State & county taxes for years 1891 & 1892 on the property of complainants in said Adams county, Mississippi; railroad commission of the State of Mississippi, during the month of November, 1892, certified to him, said defendant, that said privilege taxes were due for the year 1892, due by the said Louisville, New Orleans & Texas Railway Company, Natchez, Jackson & Columbus division, assessed by said commission as class 3rd at the valuation of 210,000 per mile on 13.300 miles, the total privilege tax claimed being $133.00, and that in the default of the payment of said privilege tax he did on the 30th day of December levy on passenger coach No. 11, then on the railroad at complainant's, The Yazoo & Mississippi Valley's, depot, in the city of Natchez, Mississippi, as will more fully appear by reference to copies of said affidavits, endorsements thereon, and said certificate of said sheriff to be filed herewith as Exhibits D, E, & F & H and prayed to be taken as part of this bill; tyat prior to the levy on said car which said defendant has seized & advertised for sale, to wit, on the — day of December, 1892, the said affidavits wrre again presented to said defendant as sheriff and tax collector and a receipt for said privilege taxes assessed, as shown above, was demanded by complainants and was refused by defendant, and he has advertised said car for public sale to enable him to collect said privilege tax, & will proceed to sell the same unless restrained by order of this court,
54 to the great damage of and in violation of the rights of complainants, as hereinabove set forth.

Complainants further show that, having refused to receive or recognize the affidavits of complainants showing the payment and application of the taxes of 1891 & 1892 to the debts and liabilities of the Natchez, Jackson & Columbus Railroad Company, incurred and used in the construction of the railroad from Natchez to Jackson, Mississippi, and to give a receipt in full for said taxes, including said privilege tax, and claiming that the affidavits tendered to him are not sufficient in law to warrant him in giving receipts for said taxes, including said privilege tax, the said defendant, sheriff & tax collector of said Adams county, will, unless restrained by order of this court, proceed (as he has advertised he will do) to sell on the — day of January, 1893, the said car seized by him, as aforesaid, to satisfy said demand for a privilege tax of $133.00, damages and costs, regardless of the rights of complainants hereinbefore set forth.

The premises considered, complainants pray that James W. Lambert, sheriff & tax collector of Adams county, Mississippi, be made a party defendant to this bill and *he* required to answer all the allegations thereof, and that he be inhibited and enjoined by order of this court from proceeding to collect said privilege tax of $133.00 assessed by said railroad commission for the year 1892, claimed by him to be due, as aforesaid, on the property of complainants derived, as aforesaid, from the Louisville, New Orleans & Texas Railway Company or the Natchez, Jackson & Columbus Railroad Company, and from selling said car levied upon, as aforesaid, or any other property of complainants in the said county of Adams, and that he be required by the order of this court to deliver to complainants a receipt, as by law required, for the said amount of said privilege tax assessed & levied, as aforesaid.

55 May it please your honor to grant the said complainants the State's writ of subpœna, directed & commanding, &c.; and, as in duty bound, complainants will ever pray, &c.

YERGER, PERCY & WILL T. MARTIN,
Complainants' Solicitors.

STATE OF MISSISSIPPI, }
Adams County. }

Personally appeared before me, Allison H. Foster, clerk of the chancery court of said county, Will T. Martin, one of the solicitors for complainants in the foregoing bill of complaint, who states on oath that the matters and things set forth in the foregoing bill as stated therein on the knowledge of complainants or affiant are true, and those stated on information of others he verily believes to be true.

WILL T. MARTIN.

Sworn to & subscribed before me this 7th day of January, A. D. 1893.

[SEAL.] ALLISON H. FOSTER, *Clerk.*

Fiat of the Judge.

STATE OF MISSISSIPPI, }
Adams County. }

To the clerk of the chancery court of said county:

Upon the filing of the foregoing bill of complaint and the complainants entering into bond, conditioned as required by statute, in the penalty of five hundred dollars, with Lercy Percy, Wm. G. Yerger, and George W. Koontz as sureties, which said bond is hereby approved, you will issue writs of subpœna and injunction as prayed for.

Given under my hand this 7th day of January, A. D. 1893.

CLAUDE PINTARD, *Chancellor.*

56 EXHIBIT A.

Articles of association and consolidation, made and entered into this 12th day of August, 1884, by and between the Tennessee Southern Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Tennessee, of the first part; the Memphis and Vicksburg Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Mississippi, of the second part; the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Mississippi, of the third part; and the New Orleans — Mississippi Valley Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Louisiana, of the fourth part.

Whereas, it is believed that a consolidation of the parties hereto into one corporation will be mut-ally advantageous, and it has been agreed by and between said parties that they should be so consolidated with each other in the manner and upon tye terms and conditions hereinafter expressed; now therefore, this agreement witnesseth:

That under and by virtue of the statutes of the respective States of Tennessee, Mississippi and Louisiana, in such case made and provided, and in consideration of the mutual undertakings covenants and agreements hereinafter contained, the said parties have mutually covenant- and agree- to and with each other as follows, that is to say:

Article 1. The said parties hereto do hereby consolidate with each other into one consolidated corporation, into which are merged and consolidated the several capital stocks, franchises, grants, immunities, privileges, properties, rights of way, and all property, real, personal and mixed, of the several and respective parties hereto.

Article 2. The corporate name of the said consolidated company shall be the Louisville, New Orleans & Texas Railway Com-
57 pany.

Article 3. The officers of said consolidated company shall consist of a president, vice-president, secretary, treasurer and nine directors, who shall be elected by the stockholders of the companies entering into the consolidation at the time the same is effected, and such officers shall be elected annually thereafter upon such notice and terms as the board of directors may prescribe; but failure to hold any annual election, shall in nowise impair or affect said corporation; in such event the officers elected at the last regular election shall hold office until their successors are elected and qualified, and a special election may be held for that purpose.

Article 4. The capital stock of said corporation shall be ten mil-ion dollars, to be divided into one hundred thousand shares of one hundred dollars each; but the said corporation may at any time increase or diminish the amount of its capital stock according to law.

Article 5. Each stockholder of any of the divisional companies parties hereto, shall be entitled to the same number of shares of the capital stock of the consolidated corporation which he holds of the capital stock of such divisional company, and shall be entiyled to receive from said consolidated company certificates therefor upon the surrender of the certificates for stock in such divisional company held by him, and the remainder of the capital stock of such consolidated company shall be issued from time to time, and upon such terms and conditions as may be prescribed by the board of directors of said company.

Article 6. That the company formed by consolidation as aforesaid be and the same is hereby authorized and empowered in such manner and upon such conditions as permitted by law so to do, to issue its bonds and to secure the same by mortgage or deed in trust upon all its rights, ways, franchises and property, real and personal, no matter where the same may be situated, and whether the same be owned by said company at the time of its formation or thereafter required.

58 Article 7. The domicile of such corporation, under the laws of the State of Louisiana, shall be in the parish of Orleans, and the general — of the consolidated company shall be at Memphis, in the State of Tennessee.

In witness whereof, the parties — have caused their corporate seal- to be affixed and attested by the secretaries of their respective companies, and their corporate names to be subscribed thereto by their respective presidents.

TENNESSEE SOUTHERN RAILROAD COMPANY,

[SEAL.] By R. T. WILSON, *President.*

Attest: CHANNING BURNZ, *Secretary.*

NEW ORLEANS, BATON ROUGE, VICKSBURG & MEMPHIS R. R. CO.,

[SEAL.] By R. T. WILSON, *President.*

Attest: CHARLES E. ARMSTRONG, *Secretary.*

NEW ORLEANS & MISSISSIPPI VALLEY RAILROAD COMPANY,

[SEAL] By R. T. WILSON, *President.*

Attest: C. H. BOSHER, *Secretary.*

STATE OF NEW YORK, *City and County of New York,* } *ss:*

Be it remembered that on this 14th day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, Edwin F. Corey, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally

appeared Richard T. Wilson, president of the Memphis & Vicksburg Railroad Company, and Channing Burnz, secretary of the same company, to me respectively personally known and known to me to be such officers of the said company, who, being by me severally duly sworn, did depose and say that he, said Richard T. Wilson, resided in the city of New York, in the State of New
59 York, and that he, said Channing Burnz, resided in the city of New York, in the State of New York; that he, said Richard T. Wilson, was the president and he, said Channing Burnz, was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of the said company, and that they, the said Richard T. Wilson and Channing Burnz, signed their names thereto by the like order as president and secretary of said company respectively.

In witness whereof I have hereunto set my hand and affixed my official seal this 14th day of August, one thousand eight hundred and eighty-four.

[Commissioner's Seal.]

EDWIN F. COREY,
Commissioner for Mississippi in New York.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 14th day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, Edwin F. Corey, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the New Orleans & Mississippi Valley Railroad Company, and Charles H. Bosher, secretary of the same company, to me respectively personally known and known to me to be such officers of the said company, who, being by me severally sworn, did depose and say that he, said Richard T. Wilson, resided in the city of New York, in the State of New York, and that he, said Charles H. Bosher, resided in the city of Brooklyn, in the State of New York; that he, said Richard T. Wilson, was the president and he, said Charles H. Bosher, was the
60 secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of the said company, and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereto by the like order as president and secretary of said company respectively.

In witness whereof I have hereunto set my hand and affixed my

official seal this 14th day of August, one thousand eight hundred and eighty-four.

[Commissioner's Seal.]

EDWIN F. COREY,
Commissioner for Mississippi in New York.

STATE OF NEW YORK, }
City and County of New York, } ss:

Be it remembered that on this fourteenth day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, Edwin F. Corey, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally appeared before me Richard T. Wilson, president of the Tennessee Southern Railroad Company, to me personally known and known to me to be such officer of the said company, who, being by me duly sworn, did depose and say that he resided in the city of New York, in the State of New York; that he was the president of the said company, and that he signed the name of said company and his name as president thereof to the foregoing instrument by order of its board of directors.

In witness whereof I have hereunto set my hand and affixed my official seal this 14th day of August, one thousand eight hundred and eighty-four.

[Commissioner's Seal.]

EDWIN F. COREY,
Commissioner for Mississippi in New York.

61 STATE OF NEW YORK, }
City and County of New York, } ss:

Be it remembered that on this 14th day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, Edwin F. Corey, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in the said city and county of New York, personally appeared Richard T. Wilson, president of the New Orleans, Baton Rouge, Vicksburg and Memphis Railroad Company, to me personally known and known to me to be such officers of the said company, who, being by me duly sworn, did depose and say that he resided in the city of New York, in the State of New York; that he was the president of the said company, and that he signed the name of said company and his name as president thereof to the foregoing instrument by order of its board of directors.

In witness whereof I have hereunto set my hand and affixed my official seal this 14th day of August, one thousand eight hundred and eighty-four.

[Commissioner's Seal.]

EDWIN F. COREY,
Commissioner for Mississippi in New York.

STATE OF TENNESSEE, }
County of Shelby, } *ss:*

Be it remembered that on this the 25th day of Aug., in the year of our Lord one thousand eight hundred and eighty-four, before me, Hunsdon Carey, a duly appointed notary public in and for the said county of Shelby, State of Tennessee, and commissioner for the State of Mississippi in and for the State of Tennessee, residing in Memphis, Tenn., personally appeared Holmes Cummins, secretary of the Tennessee Southern Railroad Company, to me personally known and known to me to be such officer of the said company, who, being by me duly sworn, did depose and say that he resided in the city of Memphis, in the State of Tennessee; that he was the secre-
62 tary of the said company; that he knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the — of directors of the said company, and that he signed his name thereto by the like order as secretary of said company.

In witness whereof I have -unto set my hand and affixed my official seal this 25th day of August, one thousand eight hundred and eighty-four.

[NOTARIAL SEAL.]
[COMMISSIONER'S SEAL.] HUNSDON CAREY,
Notary Public, Memphis, Tenn., and Commissioner for Mississippi in Tennessee.

STATE OF MISSISSIPPI, }
Warren County, } *ss:*

Be it remembered that on the 26th day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, L. M. Loewenberg, a duly appointed notary public in and for the said county of Warren, State of Mississippi, residing in Vicksburg, personally appeared Charles E. Armstrong, secretary of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, to me personally known and known to me to be such officer of the said company, who, being by me duly sworn, did depose and say that he resided in the city of Vicksburg, in the State of Mississippi; that he was the secretary of the said company; that he knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of the said company, and that he signed his name thereto by the like order as secretary of said company.

In witness whereof I have -unto set my hand and affixed my official seal this 26th day of August, one thousand eight hundred and eighty-four.

L. M. LOEWENBERG,
[NOTARIAL SEAL.] *Notary Public.*

63 I, Charles H. Bosher, secretary of the New Orleans & Mississippi Valley Railroad Company, do hereby certify that at a special meeting of the stockholders of said railroad company called

for that purpose after sixty days' public notice in two newspapers, published at the domicile of said railroad company, in the State of Louisiana, to wit, at the city of New Orleans, in said State (and in the call for which special notice was given to the stockholders of the proposed consideration of an action upon the question of consolidation of said company with other companies hereinafter mentioned), the following preamble and resolutions were passed by the vote of upwards of three-fourths of all stockholders present and represented thereat and by the votes of the holders of upwards of three-fourths of the entire capital stock of said company, to wit:

Whereas, due notice has been given of this meeting, as required by act No. 38 of the acts of the legislature of the State of Louisiana at its regular session for the year 1882, viz. sixty days' continuous publication in the New Orleans Times Democrat and the New Orleans States,

Be it resolved by the stockholders of the New Orleans & Mississippi Valley Railroad Company, That this corporation be and the same is hereby consolidated with the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Mississippi, with the Memphis & Vicksburg Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Mississippi, and with the Tennessee Southern Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Tennessee, under the following terms and conditions:

Article 1. The said companies do consolidate with each other into one consolidated corporation, into which are merged and consolidated the several capital stocks, franchises, grants, immunities, privileges, properties, rights of way and all property, real personal and mixed of the several and respective companies.

64 Article 2. The corporate name of the said consolidated company shall be the Louisville, New Orleans & Texas Railway Company.

Article 3. The officers of said consolidated company shall consist of a president, vice-president, secretary, treasurer and nine directors, who shall be elected by the stockholders of the companies entering into this consolidation at the time the same is effected; such officers shall be elected annually thereafter upon such notice and terms as the board of directors may prescribe; but failure to hold any annual election, shall in nowise impair or affect the said corporation; in such event the officers elected at the last regular election shall hold office until their successors are elected and qualified, and a special election may be held for that purpose.

Article 4. The capital stock of said consolidation corporation shall be ten million dollars, to be divided into one hundred thousand shares of one hundred dollars each; but the said corporation may at any time increase or diminish the amount of its capital stock according to law.

Article 5. Each stockholder of any of the divisional companies so consolidating shall be entitled — the same number of shares of the capital stock of the consolidated corporation which he holds of the capital stock of such divisional company, and shall be entitled to receive from said consolidated company certificates therefor, upon the surrender of the certificates for stock in such divisional company held by him, and the remainder of the capital stock of such consolidated company shall be issued from time to time and upon such terms and conditions as may be prescribed by the board of directors of said company.

Article 6. That the company formed by the consolidation as aforesaid be and the same is hereby authorized and empowered in such manner and upon such conditions as permitted by law so to do to issue its bonds, and to secure the same by mortgage or deed in trust, upon all its rights ways, franchises and property, real and personal, no matter where the same be situated, and whether the same be owned by said company at the time of its formation or thereafter required.

Article 7. The domicile of such new corporation under the laws of the State of Louisiana, shall be in the parish of Orleans, and the general domicile of the consolidated company shall be at Memphis, in the State of Tennessee.

"Be it further resolved by the stockholders of the New Orleans & Mississippi Valley Railroad Company, That the president and secretary of this company are hereby authorized and empowered to do all acts, and to sign all contracts, deeds and agreements necessary and proper to carry this resolution into full and final effect. That stockholders holding 12,796 shares of the capital stock of said company, out of a- outstanding capital stock, consisting of 12,800 shares thereof, were present or represented at such meeting; that stockholders holding four shares of the stock of the company were absent and unrepresented, and that the foregoing preamble and resolutions were adopted by the unanimous vote upon such 12,796 shares, the stockholders of which were so present and represented, and without opposition on the part of any stockholder thereto."

In witness whereof, I have hereunto set my hand and the seal of the said company, the twelfth day of August, 1884.

[Seal of the N. O. & M. V. R. R. Co.]

C. H. BOSHER, *Secretary.*

We, the undersigned stockholders of the New Orleans & Mississippi Valley Railroad Company to the amounts set opposite our respective signatures hereto, do hereby authorize, ratify, and approve the consolidation between the New Orleans & Mississippi Valley Railroad Company, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, the Memphis & Vicksburg Railroad Company, and the Tennessee Southern Railroad Company, upon the terms and conditions set forth in the foregoing articles of consolidation:

	Names.	Shares.
66	Financial Improvement Company.....	10,666
	(F. I. Co. seal.) By James B. Hawes, pres.	
	Attest: F. H. Davis, sec'y.	
	C. H. Bosher.....	1,010
	W. M. Johnston.....	1,088
	Albert Crolius.....	10
	R. T. Wilson.....	10

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 14th day of August, 1884, before me, Edwin F. Corey, a duly appointed notary public in and for the city and county of New York, in the State of New York, and commissioner for the State of Mississippi, residing in said city and county of New York, personally appeared Charles H. Bosher, to me personally known, who, being by me duly sworn, did depose and say that he was the secretary of the New Orleans and Mississippi Valley Railroad Company above named; that the foregoing certificate was true, and that the foregoing instrument of authorization and approval of articles of consolidation was signed by the holders of stock of said New Orleans & Mississippi Valley Railroad Company to the number of 12,784 shares there- out of the entire capital stock amounting in the aggregate to 12,800 shares.

In witness whereof I have unto set my hand and affixed my official seal this 14th day of August, one thousand eight hundred and eighty-four.

EDWIN F. COREY,
[NOTARIAL SEAL.] *Notary Public for the State of New*
[COMMISSIONER'S SEAL.] *York and Commissioner for the State of Mississippi in New York.*

67 I, Channing Burnz, secretary of the Memphis & Vicksburg Railroad Company, do hereby certify that at a meeting of the stockholders of the said railroad company duly called and held (and in the call for which special notice was given to the stockholders of the proposed consideration and action upon the question of consolidation of said company with the companies mentioned in such agreement) the agreement of consolidation hereunto annexed and the terms and conditions thereof were approved by a vote of the holders — upwards of three-fourths of the entire capital stock of said company; that stockholders holding 47,672 shares of the capital stock of said company out of an outstanding capital stock not exceeding 49,196½ shares were present or represented at such meeting, and that such agreement of consolidation and the terms and conditions thereof, as in said agreement expressed, were approved by unanimous vote upon such 47,672 shares, the holders of which were so present and represented, and without opposition on the part of any stockholders thereto.

In witness whereof I have -unto set my hand and the seal of said company the twelfth day of August, 1884.

[Seal of M. & V. R. R. Co.]

CHANNING BURNZ, *Secretary.*

We, the undersigned stockholders of the Memphis & Vicksburg Railroad Company to the amounts set opposite our respective signatures hereto, do hereby authorize, ratify, and approve the consolidation of the Memphis & Vicksburg Railroad Company, the Tennessee Southern Railroad Company, the New Orleans & Mississippi Valley Railroad Company, and the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company upon the terms and conditions expressed in the annexed agreement of consolidation:

68 Names.	Shares.
W. M. Johnston	23,705
C. H. Bosher	23,668
Mississippi Valley Construction Co. By Albert Crolius, V. *P.* Attest: F. H. Davis, sec'y.	100
Financial Improvement Co. (F. I. Co. seal.) By James B. Hawes, pres. Attest: F. H. Davis, sec'y.	100
R. T. Wilson	20
C. M. Calhoun	5
J. H. Ingram	5
Albert Crolius	5
E. L. Golborne	5
Channing Burnz	5
J. F. Van Name	5

STATE OF NEW YORK, } 88 :
City and County of New York, }

Be it remembered that on this 14th day of August, 1884, before me, a duly appointed notary public in and for the city and county of New York, in the State of New York, and commissioner for the State of Mississippi, residing in said city and county of New York, personally appeared Channing Burnz, to me personally known, who, being by me duly sworn, did depose and say that he was the secretary of the Memphis & Vicksburg Railroad Company above named; that the foregoing certificate by him subscribed was true, and that — foregoing instrument of authorization and approval was signed by holders of stock of said Memphis & Vicksburg Railroad Company to the amount of 47,623 shares thereof out of the entire capital stock, not exceeding in the aggregate 49,196½ shares.

In witness whereof I have hereunto set my hand and affixed my official seal this 14th day of August, 1884.

69 EDWIN F. COREY,

[NOTARY SEAL.] *Notary Public for the State of New*
[COMMISSIONER SEAL.] *York and Commissioner for Mississippi in New York* York.

I, Charles E. Armstrong, secretary of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, do hereby certify that at a meeting of the stockholders of the said railroad company duly called and held (and in the call for which special notice was given to the stockholders of the proposed consideration of an action upon the question of consolidation of said company with the companies mentioned in said agreement) the agreement of consolidation hereunto annexed and the terms and conditions thereof were approved by a vote of the holders of upwards of three-fourths of the entire capital stock of said company; that stockholders holding 52,470 shares of the capital stock of said company out of an outstanding capital stock consisting of 52,500 shares were present or represented at such meeting; that stockholders holding 30 shares of the stock of said company were absent and unrepresented, and that such agreement of consolidation and the terms and conditions thereof as in said agreement expressed were approved by unanimous vote upon such 52,470 shares, the holders of which were so present and represented, and without opposition on the part of any stockholders thereto.

In witness whereof I have hereunto set my hand and affixed the seal of the said company the twelfth day of August, 1884.

[N. O., B. R., V. & M. R. R. Co. Seal.]

CHARLES E. ARMSTRONG, *Secretary.*

We, the undersigned stockholders of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company to the amounts set opposite our respective signatures hereto, do hereby authorize, ratify, and approve the consolidation of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, the Mem-
70 phis & Vicksburg Railroad Company, Tennessee Southern Railroad Company, and the New Orleans & Mississippi Valley Railroad Company upon the terms and conditions expressed in the annexed agreement of consolidation.

Names.	Shares.
R. T. Wilson	52,420
J. H. Ingram	10
Thomas J. Sherman	10
J. M. Edwards	10
Charles E. Armstrong	10
W. S. Matthews	10
John A. Grant	10
R. H. Elliot	10

STATE OF MISSISSIPPI, *County of Warren,* } *ss:*

Be it remembered that on this 26th day of Aug., 1884, before me, a duly appointed notary public in and for the county of Warren, the State of Mississippi, personally appeared Charles E. Armstrong, to me personally known, who, being by me duly sworn, did depose

and say that he was the secretary of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, above named; that the foregoing certificate by him subscribed was true, and that the foregoing instrument of authorization and approval was signed by holders of stock of said New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company to the amount of 52,470 shares thereof out of the entire capital stock, amounting in the aggregate to 52,500 shares.

In witness whereof I have hereunto set my hand and affixed my official seal this — day of August, 1884.

L. M. LOEWBERG,

[NOTARIAL SEAL.] *Notary Public.*

I, Holmes Cummins, secretary of Tennessee Southern Railroad Company, do hereby certify that — an regular meeting of the stockholders of the said railroad company, duly called and held (and
71 in the call for which special notice was given to the stockholders of the proposed consideration of an action upon the question of consolidation of said company with the companies mentioned in said agreement), the agreement of consolidation hereunto annexed and the terms and conditions thereof were approved by a vote of the holders of upwards of three-fourths of the entire capital stock of said company; that stockholders holding 1,934 shares of the capital stock of said company out of an outstanding capital stock consisting of 1,980 shares were present or represented at such meeting; that stockholders holding 46 shares of the capital stock of said company were absent and unrepresented, and that such an agreement of consolidation and the terms and conditions thereof as in said agreement expressed were approved by unanimous vote upon such 1,934 shares, the holders of which were so present and represented, and without opposition on the part of any stockholder thereto.

In witness whereof I have hereunto set my hand and the seal of the said company the twelfth day of Aug., 1884.

[Tenn. Southern R. R. Seal.]

HOLMES CUMMINS, *Secretary.*

We, the undersigned, stockholders of the Tennessee Southern Railroad Company to the amounts set opposite our respective signatures hereto, do hereby authorize, ratify, and approve the consolidation of the Tennessee Southern Railroad Company, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, and the Memphis & Vicksburg Railroad Company upon the terms and conditions expressed in the annexed agreement of consolidation.

Names.	Shares.
Financial Improvement Co.	1,300
(F. I. Co. seal.) By James B. Hawes, pres.	
Attest: F. H. Davis, secretary.	
W. M. Johnston	520
72 R. T. Wilson.....	10
C. H. Bosher.....	10

Albert Crolius	10
J. F. Van Name	10
Channing Burnz	10
J. E. Gates	10
E. H. Pardee	10
Jas. Edwards	10
W. I. Matthews	10
Holmes Cummins	10

STATE OF TENNESSEE, } ss:
County of Shelby, }

Be it remembered that on this 25th day of Aug., 1884, before me, a duly appointed notary public in and for the county of Shelby, in the State of Tennessee, and commissioner *ofr* the State of Mississippi, residing in Memphis, in said State of Tennessee, personally appeared Holmes Cummins, to me personally known, who, being by me duly sworn, deposed and said that he was the secretary of the Tennessee Southern Railroad Company above named; that the foregoing certificate by him subscribed was true, and that the foregoing instrument of authorization and approval was signed by holders of stock of said Tennessee Southern Railroad Company to the amount of 1,934 shares thereof out of the entire capital stock, amounting in the aggregate to 1,980 shares.

In witness whereof I have hereunto set my hand and affixed my official seal this twenty-fifth day of August, 1884.

[NOTARIAL SEAL.] HUNSDON CARY,
Notary Public, Memphis, Tenn., Commissioner
[COMMISSIONER'S SEAL.] *for Mississippi in Tenn.*

73 I, Charles H. Bosher, secretary of the Louisville, New Orleans & Texas Railway Company, do hereby certify under the provisions of the statutes of the State of Mississippi in that behalf that the foregoing is a correct and true copy of the agreement of consolidation between the several companies by the consolidation of which the said Louisville, New Orleans & Texas Railway Company was formed, and *and* of the whole of said agreement of consolidation, and of the accompanying documents, and that the said agreement actually went into effect on the day of its execution, viz., the twelfth day of August, 1884.

In witness whereof I have hereunto set my hand and the corporate seal of the said consolidated corporation this 20th day of March, in the year 1891.

[SEAL.] C. H. BOSHER, *Secretary.*

STATE OF NEW YORK, } ss:
City and County of New York, }

I, William H. Clarkson, a commissioner of deeds for the State of Mississippi in and for the State of New York, residing in the city of New York, do hereby certify that on the 20th day of March, A. D. 1891, before me personally appeared C. H. Bosher, who signed the

foregoing certificate in my presence, and, being duly sworn, *de* did depose and say that he is the secretary of the Louisville, New Orleans & Texas Railway Company, and that the foregoing certificate by him subscribed is in all respects true.

In testimony whereof I have hereunto set my hand and affixed my official seal this 20th day of March, A. D. 1891.

[SEAL.] WILLIAM H. CLARKSON,
Commissioner for the State of Mississippi in New York, 115 *Broadway, N. Y.*

Endorsed: Filed in office of secretary of state April 6th, 1891. Geo. M. Govan, secretary of state.

74 STATE OF MISSISSIPPI, }
Office of Secretary of State. }

I, Geo. M. Govan, secretary of state of the State of Mississippi, do certify that the foregoing and annexed fifteen (15) pages contain a full, true, and correct copy of the articles of association and consolidation of the Tennessee Southern Railroad Company, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, the New Orleans & Mississippi Valley Railroad Company, under the name and style of the "Louisville, New Orleans & Texas Railway Company," together with several acts and proceedings of the ratification and approval of said consolidation by the said several companies, as attested by their several respective officers and the several official certificates of the acknowledgement thereof, and the endorsement of the filing of the same, as all appear on file in this office.

Given under my hand and the great seal of the State of Mississippi this 9th day of April, A. D. 1891.

GEO. M. GOVAN,
[SEAL.] *Secretary of State.*

The following is an agreement of counsel as to "Exhibit B," to be incorporated in this record; same is in the words and figures following, to wit:

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY *et al.*
vs.
JAMES W. LAMBERT, Sheriff and Tax Collector, &c. } No. 1216.

Whereas the bill in this cause refers to and recites the conveyance of the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company — all of its property rights, privileges, and immunities, dated March 28th, A. D. 1890, and whereas also the said deed was referred to and used in argument of counsel on each side, but by accident was not formally filed
75 as Exhibit B to the bill, therefore counsel for the parties agree

that it may now be incorporated as part of the record and marked Exhibit "B."

K. PALMER LANNEAU,
Sol. for Defendant.
YERGER & PERCY,
By MARTIN,
WILL T. MARTIN,
Sol's for Compl'ts.

Natchez, Jackson & Columbus Railroad Company
to
Louisville, New Orleans & Texas Railway Company.

This indenture made and entered this 28th day of March 1890 by and between the Natchez, Jackson & Columbus Railroad Company of the first part, and the Louisville, New Orleans & Texas Railway Company of the second part, witnesseth, that, the party of the first part, in consideration of the sum of one hundred & eighty thousand dollars lawful money of the United States, to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged has granted, bargained, sold, assigned, transferred and conveys, unto the party of the second part, its successors and assigns, forever, all the railroad and other property, of the party of the first part, lying, *between* and situated in the State of Mississippi, together with all franchises, rights, powers, privileges and immunities, unto the said party of the first part, appertaining or belonging, to have and to hold to the said party of the second part, its successors and assigns forever, subject however, to the existing mortgage from the party of the first part, to the Farmers' Loan and Trust Company, trustee, dated September 1, 1882, securing outstanding bonds of the party of the first part, to the amount at their par or face value of not exceeding one million two hundred and fifty thousand dollars, and subject to the current interest thereon. And

76 in consideration of the premises the party of the first part has undertaken, covenanted and agreed, and hereby undertakes, covenants and agree-, to and with the party of the second part, to provide for the interest which matured on or prior to March 1, 1890, on bonds secured by the mortgage above referred to, and provided for the payment of all other unpaid indebtedness and obligations of the party of the first part, accruing from and after May 1, 1889.

In witness whereof, the party of the first part has caused these presents to be executed on its behalf by its president and its corporate seal to be hereunto affixed, and attested by its secretary, the day and year first above written.

NATCHEZ, JACKSON & COLUMBUS RAILROAD CO.,
By T. J. NICHOLL, *President.*
[CORPORATE SEAL.] JOS. T. PENTON, *Secretary.*

STATE OF MISSISSIPPI, }
Adams County. }

Personally appeared before me, J. Chas. Carson, a justice of the peace and *ex officio* notary public in and for the county and State aforesaid, the within-named T. J. Nicholl and Jos. T. Penton, who, being by me duly sworn, depose, say, and acknowledge that they signed, sealed, and delivered the foregoing deed on the day and year therein named as the act and deed of the Natchez, Jackson & Columbus Railroad Company, the said T. J. Nicholl deposing and acknowledging that he signed and delivered said deed as the president of said company and by authority of a resolution of the board of directors of said company, and the said Jos. T. Penton deposing and acknowledging that he signed said deed and affixed the corporate seal of said company to said deed by authority of a resolution of the board of directors of said company and as the secretary of said company; and the said T. J. Nicholl and Jos. T. Penton further depose, say, and acknowledge that they knew the corporate —
of said Natchez, Jackson & Columbus Railroad Company,
77 & that the seal so affixed to said deed is the seal of said Natchez, Jackson & Columbus Railroad Company & was so affixed by the order of the board of directors of said company.

In witness whereof I have -unto set my hand and affixed my official seal this 28th day of March, A. D. 1890.

J. CHAS. CARSON,
[L. S.] *J. P. and ex Officio Notary Public.*

Filed for record in my office this 15th day of April, A. D. 1890, at 2.10 o'clock p. m.

ALLISON H. FOSTER, *Clerk.*

Recorded April 16th, 1890.

THE STATE OF MISSISSIPPI, }
Adams County, } *ss:*

I, Allison H. Foster, clerk of the chancery court of said county, do hereby certify that the foregoing two pages and what precedes this certificate on this page contains and exhibits a true and perfect copy of the record of the original deed from the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railroad Company as the same now appears of record in my office in the deed records of said county, Book "3 E," pages 324, 325, and 326, of said county.

Witness my hand and the seal of said court, at the city of Natchez, this February 24th, A. D. 1892.

ALLISON H. FOSTER,
[SEAL.] *Clerk of the Chancery Court.*

78 The following is an agreement of counsel as to "Exhibit C," to be incorporated in this record; same is in the words and figures following, to wit:

STATE OF MISSISSIPPI,
Adams County.

Chancery Court, March Term, 1893.

THE NATCHEZ, JACKSON & COLUMBUS RAILroad Company *et al.*
vs.
JAMES W. LAMBERT, Sheriff and Tax Collector, &c.

No. 1216. Agreement of Counsel.

Whereas on the final hearing of this cause at said term of court the act of consolidation of the Louisville, New Orleans & Texas Railway Company and the Yazoo & Mississippi Valley Railroad Comp-ny, which is referred to in the bill herein as "Exhibit C," was referred to & considered by counsel of each side of the case, and the said exhibit has been mislaid, if filed or inadvertently was not filed, now, it is agreed by counsel that a copy of said act as the same is filed in No. 1207 between said parties shall now be filed, marked as Exhibit C, and shall form part of the record for the supreme court herein as fully as if it had been filed or, if filed, has been mislaid.

K. PALMER LANNEAU,
Sol. for Def't.
YERGER AND PERCY &
WILL T. MARTIN,
Counsels for Compl'ts.

March 30, '93.

EXHIBIT "C."

Articles of Consolidation.

These articles of consolidation, made this 24th day of October A. D. 1892, by and between the Louisville, New Orleans & Texas Railway Company, a corporation of the State of Tennessee, Mississippi and Louisiana, party of the first part, and the Yazoo & Mississippi Valley Railroad Company, a corporation of the State of Mississippi, party of the second part, witnesseth: That under and by
79 virtue of the charters of the respective — hereto and of the laws of the respective States of Tennessee, Mississippi and Louisiana in such case made and provided, the said parties of the first and second parts have mutually covenanted and agreed and do hereby mutually covenant and agree to and with each other, to unite, merge and consolidate their several capital stocks, corporate rights, franchises, immunities, and privileges and properties of every kind, real and personal and mixed, upon the following terms and conditions, that is to say:

Article 1. Such consolidation shall be effected by uniting or merg-

ing the stock, property and franchises of the party of the first part with and into the stock, property and franchises of the said The Yazoo & Mississippi Valley Railroad Company, without disturbing the corporate existence of the last-named company, or the formation of any new, distinct, corporation, unless such result shall be necessary to give legal effect to this agreement; but whatever may *may* be the legal consequence of the consolidation herein provided for, this agreement is to stand and be effective.

Article 2. The corporate name of the said consolidated company shall be the Yazoo & Mississippi Valley Railroad Company.

Article 3. The capital stock of the said consolidated company shall be fifteen million dollars to be divided into one hundred and fifty thousand shares of one hundred dollars each; but the said corporation may at any time increase or diminish the amount of its capital stock according to law.

Article 4. Every holder of the stock of either of the said companies now outstanding shall be entitled to cast one vote for each share of stock held by him at all stockholders' meetings of the consolidated company, which vote may be cast either in person or by proxy, and shall have all the rights of a stockholder of the consolidated company, as fully as if new shares of the consolidated company had been issued and exchanged therefor, and in case the consolidated company shall determine to issue new shares, such shares shall be exchangeable at par for the new outstanding shares of each of the constituent companies; and the remainder of the capital stock of the consolidated company shall be issued from time to time and upon such terms and conditions as may be prescribed by the board of directors of said company.

Article 5. All and singular the rights, powers, privileges, immunities and franchises, and all the railroads, real and personal estate, easements, fixtures, equipments, choses in action and property and assets of every kind, nature or description, belonging to either of the parties hereto, shall be vested in, and become the property of the said consolidated company, without any further act, deed, conveyance or assurance being required in the premises.

Article 6. The affairs of the consolidated company shall be managed by a board of directors, which shall consist of such a number of members, not less than five, as the company may determine from time to time, each of whom shall be a stockholder, and one of them a resident of the State of Mississippi, one of Tennessee and one of Louisiana. The members shall be divided into three equal classes as nearly as practicable. Successors to serve for the term of three years, shall be chosen for those who belong to the first class at the first annual meeting of the stockholders held after this consolidation shall have been effected; for those who belong to the second class, at the next annual meeting; and those belonging to the third class at the next succeeding annual meeting of the stockholders. Each director successively chosen shall continue — until his successor is elected.

Vacancies in the board caused otherwise than by expiration of the

term for which the retiring director was chosen, may be filled by a vote of a majority of the directors remaining, such appointee — in office until the next regular election of directors by the stockholders. The first board of directors shall be composed of the
81 following members, divided into three classes, as follows:

First class. Stuyvesant Fish, Adolph Schreiber, W. C. Craig, Charles A. Peabody, Jr.

Second class. John W. Auchincloss, Walther Luttgen, Edward H. Harriman, J. T. Harrahan.

Third class. S. V. R. Cruger, R. P. Neeley, R. C. Shepherd, John C. Welling.

Article 7. The board of directors of said consolidated company shall choose one of their number president, whose term of office shall be one year, or until his successor shall be chosen and qualified. They may also appoint such other officers and agents as they may deem necessary from time to time and prescribe their duties and compensation; and may provide, by the by-laws to be adopted, such rules and regulations relating to the affairs and business of said company as may be necessary or proper. The said board shall also have the power to appoint an executive committee, of whom the president shall be one *ex officio*, who shall possess and exercise all the powers and duties of the board of directors when the board is not in session. Until otherwise ordered the corporate seal of the said consolidated company shall be that of the Yazoo & Mississippi Valley Railroad Company.

Article 8. The said consolidated company shall be and the same is hereby authorized and empowered in such manner and upon such conditions as are permitted by law to issue its bonds heretofore issued by either of the constituent companies, or that have been heretofore or may be hereafter issued by any other railroad company, by mortgage or deed of trust upon all or any of its railroads, rights, franchises property, real or personal, wherever the same may be situated, and whether the same may be owned by said company at the time this consolidation is effected or may be thereafter acquired; and may also exercise any and every other corporate right or power now vested in or which might have been heretofore lawfully exercised by either of said constituent companies.

82 Article 9. Until otherwise ordered the domicile of the said corporation under the laws of the State of Louisiana, shall be in the parish of Orleans; and, under the laws of the State of Mississippi in the city of Jackson, in Hinds county; and the general domicile of the corporation shall be at Memphis, in the State of Tennessee.

Article 10. The provisions of these articles shall be obligatory upon the successors and assigns of the respective parties hereto and shall become operat- and of force from and after the 25th day of October, A. D. 189–.

In witness whereof, the parties hereto have caused their corporate names to be hereto subscribed by their respective presidents and

their corporate seals to be affixed and attested by their respective secretaries, on the day and year first above written.

LOUISVILLE, NEW ORLEANS AND TEXAS RAILWAY COMPANY,
[SEAL.] By RICHARD T. WILSON, *President.*

Attest: CHARLES H. BOSHER, *Secretary.*

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY,
[SEAL.] By STUYVESANT FISH, *President.*

Attest: ALEXANDER G. HACKSTAFF, *Secretary.*

STATE OF NEW YORK, }
City and County of New York, } *ss.:*

Be it remembered that on this twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Tennessee in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the Louisville, New Orleans & Texas Railway Company, and Charles H. Bosher, secretary
83 of the same company, to me personally known and known to me to be such officers of said company, who, being by me severally duly sworn, did depose and say that the said Richard T. Wilson was the president and the said Charles H. Bosher was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereto by like order as president and secretary of said company respectively.

In witness whereof I have unto set my hand and affixed my official seals this 24th day of October, A. D. 1892.

[SEAL.] GEO. H. TAYLOR,
Commissioner for Tennessee in New York
[SEAL.] *and Notary Public, N. Y. County.*

STATE OF NEW YORK, }
City and County of New York, } *ss.:*

Be it remembered that on this twenty-fourth day of October, A. D. 1892, before me, Geo. H. Taylor, a duly appointee notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the Louisville, New Orleans & Texas Railway Company, and Charles H. Bosher, secretary of the same company, to me personally known and known to me to be such officers of said company, who, being by me severally

sworn, did depose and say that the said Richard T. Wilson was the president and the said Charles H. Bosher was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereby by like
84 *or* as president and secretary of said company respectively.

In witness whereof I have unto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] GEO. H. TAYLOR,
Commissioner for Mississippi in New York
[SEAL.] *and Notary Public, N. Y. County.*

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that on this twenty-fourth day of October, A. D 1892, before me, Geo. H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Louisiana in and for the State of New York, personally appeared Richard T. Wilson, president of the Louisville, New Orleans & Texas Railway Company, and Charles H. Bosher, secretary of the same company, to me personally known and known to me to be such officers of said company, who, being by me severally duly sworn, did depose and say that the said Richard T. Wilson was the president and the said Charles H. Bosher was the secretary of the said company; that they knew the corporate seal affixed to the foregoing instrument was such corporate seal, and it was so affixed thereto by order of tye board of directors of said company, and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereto by like order as president and secretary of said company respectively.

In witness whereof I have unto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] GEO. H. TAYLOR,
Commissioner for Louisiana in New York and
[SEAL.] *Notary Public, N. Y. Co.*

85 STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that *that* on the twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York and commissioner for the State of Tennessee in and for the State of New York, residing in said city and county of New York, personally appeared Stuyvesant Fish, president of the Yazoo & Mississippi Valley Railroad Company, and Alexander G. Hackstaff, secretary of the same company, to me personally known and known to me to be such officers of said company, who, being by me severally duly sworn, did depose and say that he, the said Stuyvesant Fish, was the president, and that he,

the said Alexander G. Hackstaff, was the secretary, of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Stuyvesant Fish and Alexander G. Hackstaff, signed their names thereto by the like order as president and secretary of said company respectively.

In witness whereof I have -unto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] GEO. H. TAYLOR,
Commissioner for Tennessee in New York and
[SEAL.] *Notary Public, N. Y. County.*

STATE OF NEW YORK, }
City and County of New York, } *ss.:*

Be it remembered that on the twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally appeared Stuyvesant Fish, president of the Yazoo & Mississippi Valley Railroad Company, to me personally known and known to me
86 to be such officers of said company, who, being by me severally duly sworn, did depose and say that he, the said Stuyvesant Fish, was president, and *the* he, the said Alexander G. Hackstaff, was the secretary, of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Stuyvesant Fish and Alexander G. Hackstaff, signed their names thereto by the like order as presider and secretary of said company respectively.

In witness whereof I have -unto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] GEO. H. TAYLOR,
Commissioner for Mississippi in New York and
[SEAL.] *Notary Public, N. Y. County.*

STATE OF NEW YORK, }
City and County of New York, } *ss.:*

Be it remembered that *that* on the twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Louisiana in and for the State of New York, residing in said city and county of New York, personally appeared Stuyvesant Fish, president of the Yazoo & Mississippi Valley Railroad Company, and Alexander G. Hackstaff, secretary of the same company, to me personally known and known to me to be such officers of said company, who, being by me severally duly sworn, did depose and say that he, the said Stuyvesant Fish, was the

president, and that he, the said Alexander G. Hackstaff, was the secretary, of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by
87 order of the board of directors of said company, and that they, the said Stuyvesant Fish and Alexander G. Hackstaff, signed their names thereto by the like order as president and secretary of said company respectively.

In witness whereof I have -unto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] GEORGE H. TAYLOR,
Commissioner for Louisiana in New York and
[SEAL.] *Notary Public, N. Y. County.*

I hereby certify that the foregoing is a true copy of the agreement of consolidation made on the 24th day of October, 1892, by and between the Louisville, New Orleans & Texas Railway Company and the Yazoo & Mississippi Valley Railroad Company, and *and* that the same has actually gone into effect this twenty-fifth day of October, 1892.

Witness the seal of the Mississippi Valley Railroad Company and the signature of its secretary this 25th day of October, 1892.

[SEAL.] A. G. HACKSTAFF, *Secretary.*

STATE OF MISSISSIPPI, }
Office of Secretary of State. }

I, Geo. M. Govan, secretary of state, do certify that the foregoing and annexed copy of articles of consolidation of the "Louisville, New Orleans & Texas Railway Company" and the Yazoo & Mississippi Valley Railroad Company was presen-d and filed in the office of secretary of state of the State of Mississippi on the 27th day of October, A. D. 1892.

Given under my hand and the great seal of the State of Mississippi this 27th day of October, A. D. 1892.

GEORGE M. GOVAN,
Secretary of State.

88 OFFICE OF SECRETARY OF STATE, }
Jackson, Mississippi. }

I, Geo. M. Govan, secretary of state, State of Mississippi, do hereby certify that the foregoing is a true and correct copy of the "articles of consolidation of the Louisville, New Orleans & Texas Railway Company and the Yazoo & Mississippi Valley Railroad Company," as the same now appears on file in the office of secretary of state, State of Mississippi.

Given under my hand and the great seal of the State of Mississippi this 15th day of November, A. D. 1892.

[SEAL.] GEO. M. GOVAN,
Secretary of State.

EXHIBITS D AND E.

STATE OF MISSISSIPPI, }
County of Adams. }

Personally appeared before me, the undersigned, Allison H. Foster, clerk of the chancery court of the county aforesaid, A. M. Cooke, president of the Natchez, Jackson and Columbus Railroad Company, with whom I am personally acquainted and whom I know to be president of said company, who, being first duly sworn, made oath and deposed as follows:

1. That he is the president of the Natchez, Jackson & Columbus Railroad Company, a corporation existing under the laws of the State of Mississippi.

2. That in the year 1891 the said railroad company applied as much as the sum of $75,000 *dollars* to the payments of the debts and liabilities which said company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment of money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in con-
89 structing the same.

3. That the amount of all the taxes upon said railroad for the year 1891 in the county of Adams, State of Mississippi, *have* actually and in good faith been paid and applied during the year 1891 in the payment of the debts incurred or the money borrowed, as aforesaid, and that the amount of the taxes upon said railroad in the county of Adams, State of Mississippi, in and for the year 1891 *have* actually and in good faith been paid and applied to the payment of the debts incurred or money borrowed in the construction of said railroad in said county of Adams during the year 1891.

4. That the income and profits derived from the said railroad and the use and operation thereof for the year 1891 or for any year since its construction have not been sufficient to pay any dividend to its stockholders or owners, and that for the year 1891 the profits of said company or the profits derived from the use and operation of said railroad have not either or both been sufficient to enable it to declare and pay to the stockholders an annual dividend of eight per cent. on its capital stock over and above the payment of its debts and liabilities.

A. M. COOKE.
N., J. & C. R. R. CO.

Sworn to and subscribed before me this 5th day of November, A. D. 1892.

ALLISON H. FOSTER, *Clerk*,
By WM. A. FOSTER, *D. C.*

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *Nov'r* 5, 1892.

On advice of counsel, I respectfully decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R., Natchez division, in the county of Adams & State of Mississippi, for the year 1891, said taxes not having been paid and the within affida-
90 vit not being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes or to justify me in giving such receipt.

JAMES W. LAMBERT,
Tax Collector, Adams County.

STATE OF TENNESSEE, }
County of Shelby, } *ss:*

Personally appeared before me, the undersigned, H. B. Belt, a commissioner for the State of Mississippi, duly appointed and qualified according to the laws thereof and resident in Memphis, Tennessee, James M. Edwards, with whom I am personally acquainted, who, being first duly sworn, made oath and deposed as follows:

1. That he was prior to the 25th day of October, 1892, vice-president and cashier of the Louisville, New Orleans & Texas Railway Company, a corporation existing under the laws of the State of Mississippi prior to said date.

2. That on the 28th day of March, 1890, the Natchez, Jackson & Columbus Railroad Company, by deed duly executed and delivered, granted, bargained, sold, assigned, transferred, and conveyed to the Louisville, New Orleans & Texas Railway Company, as it was by law authorized to do, the railroad theretofore constructed and owned by said Natchez, Jackson & Columbus Railroad Company, from Natchez to Jackson, Mississippi, and also the immunity from taxation then held, enjoyed, and possessed by said Natchez, Jackson & Columbus Railroad Company, together with the right to apply the amount of all such taxes as said Natchez, Jackson & Columbus Railroad Company might be subject to the payment of the debts and liabilities which were incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of said railroad or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used by said company in constructing said railroad and in paying debts incurred by said Natchez, Jackson & Columbus Railroad Com-
91 pany in constructing the same, and also all other property owned at said date by the Natchez, Jackson & Columbus Railroad Company in the county of Adams and State of Mississippi.

3. That the sale, conveyance, and transfer of the railroad running from Natchez to Jackson, Mississippi, and also immunity from taxation then held and possessed by the Natchez, Jackson & Columbus Railroad Company, together with the right to apply the amount of all such taxes as said Natchez, Jackson & Colum-

bus Railroad Company was subject to to the payment of the debts and liabilities which the Natchez, Jackson & Columbus Railroad Company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company, to be used and which was used by said company in constructing said railroad and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same, was made by said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, subject to an indebtedness of $1,250,000, which said sum was incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of the railroad from Natchez to Jackson, Mississippi, by said company or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing the same, and which said indebtedness is evidenced by the bonds of said Natchez, Jackson & Columbus Railroad Company for said sum of $1,250,000.00 and which said indebtedness and said bonds are still outstanding and unpaid.

4. That in the year 1891 the Louisville, New Orleans & Texas Railway Company applied as much as the sum of $75,000 *dollars* to the payment of the debts and liabilities which the Natchez, Jackson & Columbus Railroad Company incurred in the construc-
92 tion of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used by said company in constructing said railroad and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same.

5. That the amount of all the taxes upon said railroad constructed by the Natchez, Jackson & Columbus Railroad Company from Natchez to Jackson, Mississippi, and upon the other property sold and conveyed by said company, situated in the county of Adams, State of Mississippi, to the Louisville, New Orleans & Texas Railway Company for the year 1891, in the county of Adams, State of Mississippi, *have* actually and in good faith been paid and applied during the year 1891 in the payment of the debts and liabilities incurred in the construction of the railroad from Natchez to Jackson, Mississippi, by the Natchez, Jackson & Columbus Railroad Company, or in payment of money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing the same, and that the amount of the taxes upon said railroad and other property situated in the county aforesaid conveyed by said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, as aforesaid, in the county of ——, State of Mississippi, in and for the year 1891, *have* actually and in good faith been applied to the payment of the debts incurred or money borrowed and used in the con-

struction of said railroad in said county of Adams during the year 1891.

6. That the income and profits derived from the said railroad constructed from Natchez to Jackson, Mississippi, by the Natchez, Jackson & Columbus Railroad Company, and by it sold and conveyed to the Louisville, New Orleans & Texas Railway Company, as aforesaid, and the use and operation thereof for the year
93 1891, or for any year since its construction, have not been sufficient to pay any dividend to either the stockholders of the Natchez, Jackson & Columbus Railroad Company, the Louisville, New Orleans & Texas Railway Company, or the Yazoo & Mississippi Valley Railroad Company, or the owners of such railroad, and that for the year 1891 neither the profits of the L., N. O. & T. R. R. Co. nor of the Yazoo & Mississippi Valley Railroad Company, or the profits derived from the use and operation of said railroad from Natchez to Jackson, Mississippi, have either or both been sufficient to enable either of said companies to declare and pay to the stockholders thereof an annual dividend of 8 % or any per cent. on the capital stock of said companies or either of them over and above the payment of their debts and liabilities.

7. That on the 24th day of October, 1892, the Louisville, New Orleans & Texas Railway Company was merged into and was consolidated with the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi, and by which the Yazoo & Mississippi Valley Railroad Company became entitled to all the property, rights, privileges, powers, and immunities theretofore and then belonging to the said Louisville, New Orleans & Texas Railroad Company.

8. That he is now the third vice-president and cashier of the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi.

JAS. M. EDWARDS,
3rd V. P. & Cashier Y. & M. V. R. R. Co.

Sworn to and subscribed before me this 4 day of Nov., 1892, and in testimony whereof witness my signature and official seal.

[SEAL.] H. B. BELT,
Com. for Miss.

STATE OF MISSISSIPPI, }
Adams County. }

94

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *Nov'r* 5, 1892.

On advice of counsel, I respectfully decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R. Co., Natchez division, in the county of Adams, State of Mississippi, for the year 1891, said taxes not having been paid and the within affidavit being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes or to justify me in giving such receipt.

JAS. W. LAMBERT,
Tax Collector, Adams County.

STATE OF MISSISSIPPI, }
County of Adams. }

Personally appeared before me, the undersigned, Allison H. Foster, clerk of the chancery court of the county aforesaid, A. M. Cooke, president of the Natchez, Jackson & Columbus Railroad Company, with whom I am personally acquainted and whom I know to be the president of said company, who, being first duly sworn, made oath and deposed as follows:

1. That he is the president of the Natchez, Jackson & Columbus Railroad Company, a corporation existing under the laws of the State of Mississippi.

2 That in the year 1892 the said railroad company applied as much as the sum of $75,000 *dollars* to the payment of the debts and liabilities which said company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing said railroad and paying debts incurred by said company in constructing the same.

95 3. That the amount of all the taxes upon said railroad for the year 1892 in the county of Adams, State of Mississippi, *have* actually and in good faith been paid and applied during the year 1892 in the payment of the debts incurred or the money borrowed as aforesaid, and that the amount of the taxes upon said railroad in the county of Adams, State of Mississippi, in and for the year — *have* actually and in good faith been paid and applied to the payment of the debts — or money borrowed in the construction of said railroad in said county of Adams during the year 1892.

4. That the income and profits derived from the said railroad and the use and operation thereof for the year 1892 or for any year since its construction have not been sufficient to pay any dividend to its stockholders or owners, and that for the year 1892 the profits of said company or the profits derived from the use and operation of said railroad have not, either or both, been sufficient to enable it to declare and pay to the stockholders an annual dividend of eight per cent. or any per cent. on its capital stock over and above the payment of its debts and liabilities.

A. M. COOKE,
Pres't N., J. & C. R. R. Co.

Sworn to and subscribed before me this 5th day of November, A. D. 1892.

[SEAL.] ALLISON H. FOSTER, *Clerk*,
By WM. A. FOSTER, *D. C.*

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *Nov'r* 5, '92.

On advice of counsel, I respectively decline to give a receipt for the taxes assessed against the L, N. O. & T. R. R. Co., Natchez, Jackson & Columbus division, in the county of Adams, State
96 of Mississippi, for the year 1892, said taxes not having been paid and the within affidavit not being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes or to justify me in giving such receipt.

JAMES W. LAMBERT,
Tax Collector, Adams County.

STATE OF TENNESSEE, }
County of Shelby. }

Personally appeared before me, the undersigned, H. B. Belt, a commissioner for the State of Mississippi, duly appointed and qualified according to the laws thereof, and resident in Memphis, Tennessee, James M. Edwards, with whom I am personally acquainted, who, being first duly sworn, made oath and deposed as follows:

1. That he was prior to the 24th day of October, 1892, vice-president and cashier of the Louisville, New Orleans & Texas Railway Company, a corporation existing under the laws of the State of Mississippi, prior to said date.

2. That on the 28th day of March, 1890, the Natchez, Jackson & Columbus Railroad Company, by deed duly executed and delivered, granted, bargained, sold, assigned, transferred, and conveyed to the Louisville, New Orleans & Texas Railway Company, as it was by law authorized to do, the railroad theretofore constructed and owned by said Natchez, Jackson & Columbus Railroad Company from Natchez to Jackson, Mississippi, and also the immunity from taxation then held, enjoyed, and possessed by said Natchez, Jackson & Columbus Railroad Company, together with the right to apply the amount of all such taxes as said Natchez, Jackson & Columbus Railroad Company might be subject to — the payment of the debts and liabilities which were incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of said railroad or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used by
97 said company in constructing said railroad and in paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same; and also all other property owned at said date by the Natchez, Jackson & Columbus Railroad Company in the county of Adams and State of Mississippi.

3. That the sale, conveyance, and transfer of the railroad running from Natchez to Jackson, Mississippi, and also the immunity from taxation then held and possessed by the Natchez, Jackson & Columbus Railroad Company, together with the right to apply the amount of all such taxes as said Natchez, Jackson & Columbus

Railroad Company was subject to, to the payment of the debts and liabilities which the Natchez, Jackson & Columbus Railroad Company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used by said company in constructing said railroad and in paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same, was made by said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, subject to an indebtedness of $1,250,000, which said sum was incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of the railroad from Natchez to Jackson, Mississippi, by said company or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing the same, and which said indebtedness is evidenced by the bonds of the said Natchez, Jackson & Columbus Railroad Company for said sum of $1,250,000.00, and which said indebtedness and said bonds are still outstanding and unpaid.

98 4. That in the year 1892 the Louisville, New Orleans & Texas Railway Company applied as much as the sum of $75,000 *dollars* to the payment of the debts and liabilities which the Natchez, Jackson & Columbus Railroad Company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used by said company in constructing said railroad and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same.

5. That the amount of all the taxes upon said railroad constructed by the Natchez, Jackson & Columbus Railroad Company from Natchez to Jackson, Mississippi, and upon the other property sold and conveyed by said company situated in the county of Adams, State of Mississippi, to the Louisville, New Orleans & Texas Railway Company for the year 1892, in the county of Adams, State of Mississippi, *have* actually and in good faith been paid and applied during the year 1892 in the payment of the debts and liabilities incurred in the construction of the railroad from Natchez to Jackson, Mississippi, by the Natchez, Jackson & Columbus Railroad Company or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing the same, and that the amount of the taxes upon said railroad and other property situated in the county aforesaid conveyed by the said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, as aforesaid, in the county of ——, State of Mississippi, in and for the year 1892 *have* actually and in good faith been applied to the payment of the debts incurred or money

borrowed and used in the construction of said railroad in said county of Adams during the year 1892.

99 6. That the income and the profits derived from the said railroad constructed from Natchez to Jackson, Mississippi, by the Natchez, Jackson & Columbus Railroad Company and by it sold and conveyed to the Louisville, New Orleans & Texas Railway Company, as aforesaid, and the use and operation thereof for the year 1892 or for any year since its construction have not been sufficient to pay any dividend to either the stockholders of the Natchez, Jackson & Columbus Railroad Company, the Louisville, New Orleans & Texas Railway Company, or the Yazoo & Mississippi Valley Railroad Company or the owners of such railroad, and that for the year 1892 neither the profits of the L., N. O. & T. R'y Co. nor of the Yazoo & Mississippi Valley Railroad Company or the profits derived from the use and operation of said railroad from Natchez to Jackson, Mississippi, have either — both been sufficient to enable either of said companies to declare and pay to the stockholders thereof an annual dividend of 8 % or any per cent. on the capital stock of said companies or either of them over and above the payment of their debts and liabilities.

7. That on the 24th day of October, 1892, the Louisville, New Orleans & Texas Railway Company was merged into and was consolidated with the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi, and by which the Yazoo & Mississippi Valley Railroad Company became entitled to all the property, rights, privileges, powers, and immunities theretofore and then belonging to the said Louisville, New Orleans & Texas Railway Company.

8. That he is now the third vice president and cashier of the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi.

JAS. M. EDWARDS,
3rd V. P. & Cashier Y. & M. V. R. R. Co.

Sworn to and subscribed before me this 4th day of Nov'r, 1892, and in testimony whereof witness my signature and official seal.

[SEAL.] H. B. BELT,
Com. for Miss.

100 THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE, NATCHEZ, MISS., *Nov'r* 5, '92.

On advice of counsel, I respectively decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R. Co., Natchez, Jackson & Columbus division, in the county of Adams, State of Mississippi, for the year 1892, said taxes not having been paid, and the within affidavit not being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes or to justify me in giving such receipt.

JAMES W. LAMBERT,
Tax Collector, Adams County.

Assessment-roll of the Louisville, New Orleans & Texas, N., J. & C. Div., Railway Company.

[SEAL.]

For Adams county, Mississippi, for the year 1892.

Description of property.	Valuation by commission after objections heard.
13.300 miles track, franchises, and rolling stock	133,000
1.828 miles side track	4,570
2 depots; value includes land & lot	2,600
1 stock pen; value included in depot	
2 section-houses; value includes land & lot	250
Total	140,420
State tax	$702.10

A true copy from the original roll.

JAS. W. LAMBERT,
Tax Collector.

101 County tax:

On valuation inside of city, as per page attached—valuation, $25,562, @ 10 mills	$255.62
On valuation outside city, $114,858, @ 11 mills	1,263.43
Total county tax	$1,519.05
Total State & county tax	$2,221.15

JAS. W. LAMBERT,
Tax Collector.

Copy.

Assessment-roll of the Louisville, New Orleans & Texas, N., J. & C. Div., Railway Company.

[SEAL.]

For Natchez, Adams county, Mississippi, for the year 1892.

Description of property.	Valuation by commissioners after objection heard.
1.868 miles main track, franchises, and rolling stock	18,680
1.713 miles side track	4,282
1 depot; value includes land & lots	2,600
1 stock pen; value includes *in* depot	
Total	25,562

A true copy from the original roll.

JAS. W. LAMBERT,
Tax Collector.

City tax rate (municipality), 17½ mills; therefore city taxes amount to $447.33.

102 EXHIBIT "H."

Sheriff's office, Adams county.

J. W. Lambert, sheriff. John Harper, deputy sheriff.

NATCHEZ, MISS., *Jan'y 2nd*, 1893.

I hereby certify that the Miss. railroad commission during the month of November, 1892, certified to me privileges taxes for the year 1892 due by the L., N. O. & T., N., J. C. & C. division, assessed by said commission, class 3rd; miles, 13.300; privilege tax per mile, $100,000; total privilege tax, $133.00, and that demand having been made by me on said railroad for the said amount of $133.00, and in default of the payment of said sum of $133.00 by said railroad company, I, on the 30th day of Dec., 1892, levied on passenger coach No. 11, then on the railway tracks of said road, at its depot, in the city of Natchez, Mississippi, and proceeded to deal with said seized property as tye law directs. JAMES W. LAMBERT,

Sheriff Adams County.

"Injunction Bond."

Know all men by these presents that we, The Natchez, Jackson & Columbus Railroad Company, The Yazoo & Mississippi Valley Railroad Company, Leroy Percy, William G. Yerger, and George W. Koontz, are held and firmly bound unto the State of Mississippi in the sum of five hundred dollars; to the payment of which we bind ourselves.

Signed and dated this 7th day of Jan'y, 1893.

The condition of the above obligation is such that whereas the above-bound Natchez, Jackson & Columbus Railroad Company and the Yazoo & Mississippi Valley Railroad Company has applied for an injunction restraining the sheriff of Adams county, Mississippi,

103 from collecting a privilege tax on the property in said Adams county of said railroad companies levied and assessed on the same for the year 1892, and which tax amounts to the sum of one hundred and thirty-three dollars, and have obtained said injunction restraining said sheriff and tax collector of said county of Adams from collecting said taxes:

Now, therefore, if the said Natchez, Jackson & Columbus Railroad Company and the Yazoo & Mississippi Valley Railroad Company shall well and truly pay the said tax enjoined and all damages and costs in case the injunction granted, as aforesaid, be dissolved, then this obligation to be void; otherwise to remain in full force and effect.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY,
By WILL T. MARTIN, *Solicitor.*
THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY.,
By WILL T. MARTIN, *Solicitor.*
WM. G. YERGER,
By WILL T. MARTIN, *His Att'y-in-fact.*
LEROY PERCY,
By WILL T. MARTIN, *His Att'y-in-fact.*
GEO. W. KOONTZ.

I approve the foregoing bond.

CLAUDE PINTARD, *Chancellor.*

The following is the summons issued Jan'y 9th, 1893, same being in the words and figures following, to wit:

THE STATE OF MISSISSIPPI, *Adams County,* } *To wit:*

The State of Mississippi to James W. Lambert, sheriff & tax collector of Adams county, Mississippi, Greeting:

For certain causes offered before us in our chancery court of
104 Adams county we command and strictly enjoin you that, laying all other matters aside and notwithstanding any excuse, you personally appear at the chancery court of Adams county, to be holden at the court-house, in the city of Natchez, on the first Monday in March, 1893, next ensuing, to answer a bill of complaint exhibited against you by The N., J. & C. R. R. Co. & The Yazoo & Mississippi Valley Railroad Company, complainants, in our said court.

And further to do and receive what our said court shall have considered of in this behalf; and this you shall in nowise omit, under the penalty of one hundred dollars, as well as the consequences that may fall thereon; and have then there this writ.

To the coroner of Adams county to execute and return.

Issued the 9th day of January, A. D. 1893.

ALLISON H. FOSTER, *Clerk.*

The following endorsement is on the back of said summons, viz:

Received Jan'y 9, '93.

PATRICK FOLEY, *Coroner.*

I have this day executed the within writ personally by delivering to the within-named defendant, James W. Lambert, sheriff & tax collector, a true copy of this writ this the 9th day of January, A. D. 1893.

PATRICK FOLEY, *Coroner.*

Coroner's Fee.

Serving writ	1.50
E. & R.....	.50
	$2.00

105 And on the same Jan'y 9th, 1893, the writ of injunction was granted, same being in the words and figures following, to wit:

THE STATE OF MISSISSIPPI, } *To wit:*
Chancery Court of Adams County, }

To James W. Lambert, sheriff and tax collector of Adams county, Mississippi, Greeting:

Whereas it hath been represented to us in our court of chancery on the part of The Natchez, Jackson & Columbus Railroad Company and The Yazoo & Mississippi Valley Railroad Company, complainants, that they have lately exhibited their bill against you, James W. Lambert, sheriff & tax collector of Adams county, Mississippi, defendant, to be relieved touching the matters in said bill contained, we therefore, in consideration of the premises and of the allegations in said bill contained, strictly enjoin and command you, the said James W. Lambert, sheriff & tax collector of Adams county, Miss., under the penalty of five hundred dollars, to be levied of your goods and chattels, lands and tenements, to our use, that you absolutely refrain from proceeding to collect the privilege tax of $133.00 assessed by the railroad commission of Mississippi for 1892 against the property of complainants derived from the Louisville, New Orleans & Texas R. R. Co. and the Natchez, Jackson & Columbus R. R. Co., and also from selling a car levied upon by you or any other property of complainants, for the purpose of making said privilege tax claimed to be due.

And from any further proceedings against the said complainant- touching any of the matters in said bill contained until our said court shall make another order to the contrary.

Witness the Honorable Claude Pintard, judge of the 4th chancery district of said State, the 9th day of Jan'y, one thousand eight hundred and ninety-three, and seal of said court.

106 Issued the 9th day of Jan'y, 1893.
To the coroner of Adams county to execute and return.
[SEAL.] ALLISON H. FOSTER, *Clerk.*

The following endorsement is on the writ of injunction; same is in the words and figures following, to wit:

Received Jan'y 9, '93.
PATRICK FOLEY, *Coroner.*

I have this day executed the within writ personally by delivering to the within-named James W. Lambert, sheriff & tax collector, a true copy of this writ this the 9th day of Jan'y, A. D. 1893.
PATRICK FOLEY, *Coroner.*

Coroner's Fee.

Serving writ....	1.50
E. & R....	.50
	$2.00

And afterwards, on March 6th, 1893, the plea and demurrer of defendant was filed, same being in the words and figures following, to wit:

STATE OF MISSISSIPPI, *Adams County.*

Chancery Court of said County, March Term, 1893.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY *et al.*, Complainants,
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector of Adams County, Mississippi, Defendant. } No. 1216.

The said defendant, by protestation, not confessing, &c., &c., for the plea unto a part of the said bill of complaint, viz., unto so much and such parts of said bill as contain allegations and references
107 to the taxes for the year 1891 on the properties mentioned in said bill, or seeks to bring into question the right of said defendant to collect the same or to raise any issue or issues with regard to said taxes or their legality, and especially as to so much of the prayer of said bill as may seek to restrain or enjoin defendant from proceeding to collect said taxes for the year 1891, pleads and says that on the 29th day of February, A. D. 18–2, the said Louisville, New Orleans & Texas Railway Company, grantee of the said Natchez, Jackson & Columbus Railroad Company, and subsequently, to wit, on the 25th day of October, A. D. 1892, consolidated into the said Yazoo & Mississippi Valley Railroad Company, exhibited its bill of complaint and filed the same in this honorable court against the defendant, setting up in said bill the alleged illegality of the identical same taxes on the same property for the same year 1891, the want of authority in defendant to collect the same, and praying that the collection of said taxes be enjoined; that this defendant filed his demurrer to said bill, & that thereupon such further & other proceedings were had in said cause, which was & is numbered No. 1174 on the general docket of this honorable court, that on the 22nd day of October, 1892, a final decree was rendered in this court sustaining said demurrer, dissolving the injunction, and dismissing said bill, and that at the same term of this court the said complainant in said bill *cp*tained an order allowing it an appeal from said final decree to the supreme court of the State of Mississippi, and that subsequently, to wit, on the 14th day of February, 1893, said cause No. 1174 was removed to the said supreme court, and that said cause is now in — supreme court depending; all of which pleadings, proceedings, & decree this defendant now here pleads in bar of the said bill of complaint herein so far as the same seeks to bring into question or raise any issue about or seek relief against said taxes of said year 1891, and make the said bill, demurrer, & proceedings in said cause No. 1174 a part of this his plea as fully as if the same were incorporated herein, and alleges that in said
108 last cause No. 1174 all the rights of the parties to this present bill of complaint were fully settled as to said taxes for the year 1891 in this court, and so defendant prays the judgment of this honorable court whether he should be required to make any other

or further answer to this present bill of complaint as to said taxes for the year 1891 or the other matters herein pleaded against.

K. PALMER LANNEAU,
Sol. for Def't.

Sworn to and subscribed before me this 6th day of March, 1892.
ALLISON H. FOSTER, *Clerk.*

The following contains the whole papers in cause No. 1174 on the general docket of the chancery court of Adams county submitted to & heard by the court in support and proof of the plea of the defendant to part of the bill of complaint of complainants in this cause No. 1216 on said docket, said cause No. 1174, offered as such proof, being in the words and figures following, to wit:

Bill of Complaint.

STATE OF MISSISSIPPI, }
County of Adams. }

Chancery Court of Adams County, Fourth District.

THE LOUISVILLE, NEW ORLEANS & TEXAS RAILWAY COMPANY of Memphis, Tennessee,
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector of said County, & Their Residing.

To the chancery court of Adams county:

The complainants shows to the court that by act of the legislature of this State the Natchez, Jackson & Columbus Railroad Company was, on the 21st of July, A. D. 1870, chartered (Acts of '70, page 221); that the legislature afterwards, in the year 1872, amended the charter by changing the corporate name to "the Natchez, Jackson & Columbus Railroad Company" (Acts 1872, page 279). On the 20th of
109 July, 1870, the legislature granted a charter to the "Mobile & Northwestern Railroad Company" (Acts of '70, page 255), and by the 21st section of the charter exempted that company from taxation by State, county, or municipality for 30 years (Acts of '70, page 262), and in that section provided, among other things, that "it shall be the duty of the tax collector in every county in each and every year, to give to said company a receipt in full for the amount of said taxes upon receiving from said company an affidavit made by the president or cashier, of said company, that the amount of said taxes has actually and in good faith been paid and applied by said company during the year in payment of the debts incurred or money borrowed as aforesaid and which receipt so given shall be in full of all taxes State, county and municipal, to which said company shall be subjected with a proviso that the exemption should cease when the profits of the road should be such as to enable it to declare a dividend." The profits of neither the complainant or the Natchez, Jackson & Columbus Railroad Company have enabled either to de-

clare a dividend. On the — day of August, 1870, by act of that date, the legislature extended to the Natchez, Jackson & Columbus Railroad Company the benefit of the 21st section of the charter of the Mobile & Northwestern Railroad Company. The Natchez, Jackson & Columbus Railroad Company completed its road from Natchez to Jackson, Mississippi, in the year —, and on the 5th day — March, 1878, by act of that date the legislature reaffirmed the exemption of the road from taxation for the unexpired portion of the 30 years during which it had been previously exempted. The 30 years will not expire until the year 1900. On the 19th of February, A. D. 1890, the legislature, by act of that date (Acts of '90, page 675), authorized the Natchez, Jackson & Columbus Railroad Company to sell all its property and all "franchises, rights, powers, privileges, and immunities."

110 In pursuance of the provision of this last-mentioned act, the said Natchez, Jackson & Columbus Railroad Company transferred and conveyed, by deed duly executed and acknowledged, on the 5th day of March, A. D. 1890, to complain-t, all its railroad property, "together with all franchises, rights, powers, privileges, and immunities," as shown by the deed of conveyance and transfer herewith filed as Exhibit "A."

The property conveyed by said deed is the only property in said county owned by said complainant except such rolling stock as may traverse the county. Complainant further shows that the defendant, sheriff and tax collector as aforesaid, has seized and advertised for sale, for payment of State and county taxes claimed to be due to the State and county of Adams, the depot grounds at Natchez and one locomotive engine, all belonging to complainant, the said taxes being in the aggregate $2,880. $480 of this amount is claimed as due for taxes of '91, assessed upon said depot grounds as the property of the Natchez, Jackson & Columbus Railroad Company, as will more fully appear by the certificate of defendant hereto attached as Exhibit "B."

The sum of $2,400 is claimed as due for State and county taxes of 1891 upon an assessment which is as follows:

L., N. O. & T. R. R., "Natchez division," amount of all other personal property not otherwise enumerated, $150,000, as shown by the certificate of defendant hereto attached as Exhibit "C."

Complainants show that by the terms of said deed the exemption from taxation enjoyed by the Natchez, Jackson & Columbus Railroad Company as a "privilege" and an "immunity" was transferred to complainant, which is & was from the date of said deed exempt from taxation on all property so conveyed to complainant.

Complainant made affidavit as provided for in the 21st section of act incorporating the Mobile & Northwestern Railroad Company, and demanded, upon so doing, a receipt for all the said taxes.

Defendant, not regarding the rights of complainants, refused to
111 comply with the demand, as shown by Exhibit "D," herewith filed, from which the court will be advised of the affidavit and receipt demanded and the unjust written refusal of defendant to give said receipt.

Complainant further shows that it never gave in to the tax assessor any property, real or personal, for assessment. The assessment against complainant of $150,000 as personal property subject to taxation is void for uncertainty and not warranted by law, as will be more fully shown hereinafter, &c.

That complainant, on all the road from Natchez to Jackson, was not the owner of personal property to the amount of one-half of said assessment — owns only about 14 miles of road, and the whole road is 98¾ miles long, is unjust, illegal, and oppressive, and must have been the result of a wild guess with no facts to sustain it.

Complainant further shows that the domicile of complainant is in Memphis, Tennessee; that it is a corporation doing business in this State under and by virtue of the legal consolidation of several railroad companies chartered by the legislature of the State and two companies in other States, which are incorporated in the States of their domicile. The companies so consolidated are the New Orleans and Mississippi Valley Railroad of Louisiana, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, the Memphis & Vicksburg Railroad Company of this State, and the Tennessee Southern Railroad Company of Tennessee. The Memphis & Vicksburg Railroad Company, by act of the legislature of 1878, was granted the benefit of the 21st section of the charter of the Mobile & Northwestern Railroad Company, Acts of 1870, page 268 & 327.

The act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley & Ship Island Railroad Company to effect a consolidation, Acts of 1882, page 1011, provides in the first section that "the company so formed by such consolidation shall be deemed and held to be a corporation created under the laws of the State and shall have, enjoy, and possess all the rights,
112 ways, privileges, franchises, property, grants, and immunities which are now possessed by the companies which may enter into such consolidation as fully as though the same was conferred especially in this act, and to that end the charters of said consolidating companies shall be taken and held as part of this act."

The Act of 1884, page 936, of the legislature of this State, authorized "the Memphis & Vicksburg Railroad Company, with or without the Mississippi Valley and Ship Island Railroad Company, to consolidate with any other railroad company or companies incorporated under the laws of this State in the manner and upon the terms and conditions and with the rights, privileges, and immunities in said act mentioned," referring to the above-mentioned act of 1882.

The Acts of the Legislature of 1882, page 920, which authorized the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company to consolidate with other companies, by the 25 section of the act provides "that the company shall have the power and authority to purchase and hold any connecting railroad and to operate the same, and to consolidate the company with any other company, and when the purchase is made and consolidation perfected, the consolidated company should be entitled to all the benefits, rights,

franchises, parts and property of every description belonging to said road so sold or consolidated."

Complainant further shows that it is now by consolidation and purchase the owner of the property, real and personal, and all the rights, privileges, franchises, and immunities of the railroad companies herein mentioned, and is by law exempt from taxation, irrespective of the exemption of the Natchez, Jackson & Columbus Railroad Company and by virtue of the immunities of said consolidated companies. Complainant further shows that, unless prevented by the order of this court, the said sheriff and tax collector will proceed to sell said depot grounds and locomotive, regardless of complainant's rights in the premises.

113 Wherefore complainants prays that said James W. Lambert, sheriff & tax collector, may be made a party defendant to this action and required to make answer, as by law provided, and that by order of this court he may be enjoined from further proceedings to collect said taxes, and upon final hearing that he may be perpetually enjoined in the premises; and as in duty bound, &c.

THE LOUISVILLE, NEW ORLEANS & TEXAS RAILWAY COMPANY,
By WILL T. MARTIN, *Agent and Att'y.*

WILL T. MARTIN,
Sol'r of Compl't.

STATE OF MISSISSIPPI, }
Adams County. }

Personally appeared before me Will T. Martin, solicitor of plaintiff in the foregoing bill of complaint, and made oath that the matters stated in said bill are true so far as stated on personal knowledge, and when stated on information or belief he believes them to be true.

WILL T. MARTIN.

Sworn to and subscribed before me this February 29th, A. D. 1892.

ALLISON H. FOSTER, *Clerk.*

Fiat of the Judge.

STATE OF MISSISSIPPI:

The clerk of the chancery court of Adams county will issue a writ of injunction as prayed in the foregoing bill upon complainant entering into bond in the sum of six thousand dollars, payable to defendant, with two or more good and sufficient sureties, to be approved by you, conditioned according to law.

Done this 29th day of February, 1892.

CLAUDE PINTARD, *Chancellor.*

114 EXHIBIT "A."

Natchez, Jackson & Columbus R. R. Co.
to
Louisville, New Orleans & Texas R'y Co.

This indenture made and entered — this 28th day of March, 1890 by and between the Natchez, Jackson & Columbus Railroad Company of the first part, and the Louisville, New Orleans & Texas Railway Company of the second part, witnesseth that, the party of the first part in consideration of the sum of one hundred and eighty thousand dollars, lawful money of the United States, to it in hand paid by the party of the second part, the receipt whereof, is herwby acknowledged has granted, bargained, sold, assigned, transferred and conveyed, and hereby grants, bargains, sells, assigns, — its successors and assigns, forever, all the railroad and other property, of the party of the first part, lying, being and situated in the State of Mississippi, together with all franchises, rights, powers, privileges and immunities, unto the said party of the first part, appertaining or belonging, to have and to hold to the said party of the second part, its successors — assigns forever, subject, however, to the existing mortgage from the party of the first, part, to the Farmers' Loan and Trust Company, trustee, dated September 1st, 1892, securing outstanding bonds of the party of the first — to the amount at their par or face value, of not exceeding one million two hundred and fifty thousand dollars, and subject to the current interest thereon. And in consideration of the premises of the party of the first part has undertaken covenanted and agreed and hereby undertakes covenants and agrees, to and with the party of the second part, to provide for the interest which matured on or prior to March 1, 1890, on bonds secured by the mortgage above referred to, and provide for the payment of all other unpiad indebtedness and obligations of the party of the first part, accruing from and after May 1, 1889.

115 In witness whereof, the party of the first part has caused these presents to be executed on its behalf by its president and its corporate seal to be hereunto affixed, and attested by its secretary, the day and year first above written.

NATCHEZ, JACKSON & COLUMBUS RAILROAD CO.,
By T. J. NICHOLL, *President.*

[Corporate Seal.]

JOS. T. PENTON, *Secretary.*

STATE OF MISSISSIPPI, }
Adams County. }

Personally appeared before me, J. Chas. Carson, a justice of the peace and *ex officio* notary public in and for the county and State aforesaid, the within-named T. J. Nicholl and Jos. T. Penton, who, being by me duly sworn, depose, say, and acknowledge that they

signed, sealed, and delivered the foregoing deed on the day and year therein named as the act and deed of the Natchez, Jackson & Columbus Railroad Company, the said T. J. Nicholl deposing and acknowledging that he signed and delivered said deed as the president of said company and by authority of a resolution of the board of directors of said company, and the said Jos. T. Penton deposing and acknowledging that he signed said deed and affixed the corporate seal of said company to said deed by authority of a resolution of the board of directors of said company and as the secretary of said company.

And the said T. J. Nicholl and Jos. T. Penton further depose, say, and acknowledge that they know the corporate — of said Natchez, Jackson & Columbus Railroad Company, and that the seal so affixed to said deed is the seal of said Natchez, Jackson & Columbus Railroad Company, & was so affixed by the order of the board of directors of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 28th day of March, A. D. 1890.

J. CHAS. CARSON,

[SEAL.] *J. P. and ex Officio Notary Public.*

116 Filed for record in my office this 15th day of August, A. D. 1890, at 2.10 o'clock p. m.

ALLISON H. FOSTER, *Clerk.*

Recorded April 16th, 1890.

THE STATE OF MISSISSIPPI, }
Adams County, } *ss:*

I, Allison H. Foster, clerk of the chancery court of said county, do hereby certify that the foregoing two pages of what precedes this certificate on this page contains and exhibits a true and perfect copy of the record of the original deed from the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, as the same now appears of record in my office, in the deed records of said county, Book "3 E," pages 324, 325, and 326, of said county.

Witness my hand and the seal of said court, at the city of Natchez, this February 24th, A. D. 1892.

ALLISON H. FOSTER,

[SEAL.] *Clerk of the Chancery Court.*

EXHIBIT "B."

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *February 24th*, 1892.

I hereby certify that the land assessment-roll of 1889, containing the "assessment of lands in the county of Adams, class No. 2, for the fiscal year 1889, and amount State tax thereon," contains the following assessment, to wit:

Natchez, Jackson and C. r'road, "depot and grounds, W. side N Broadway St.," extended in column on said roll designated "total value cleared land, 30,000.00;" and further extended in column of said roll designated "total value of both cleared and uncleared
117 land, 30,000.00;" and further extended in column of said roll designated "amount of State tax for 1889 on land and improvements @ 4 mills on valuation, $120.00."

I hereby further certify that the amount of the State and county taxes due on the said land & improvements (valued at $30,000.00) for the fiscal year 1891 is as follows, to wit:

State tax, at 3½ mills on the dollar	105.00
County " " 12½ " " " "	375.00
Total tax	$480.00

JAMES W. LAMBERT,
Tax Collector, Adams County.

EXHIBIT "C."

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *February 24th*, 1892.

I hereby certify that the personal assessment-roll, containing the "assessment of personal property and polls in Natchez election precinct, supervisor's district No. 1, county of Adams, for the fiscal year 1891," contains the following assessment, to wit:

"L., N. O. & T. R. R. (Natchez division)," in column of said roll designated thereon "amount of all other personal property not otherwise enumerated," "150,000.00;" and further extended in column of said roll designated "aggregate State tax," $525.00.

I hereby further certify that the amount of State & county taxes due on said total value of property (viz., $150,000) for the fiscal year 1891 is as follows, to wit:

State tax, at 3½ mills on the dollar	$525.00
County " at 12½ mills on the dollar	1,875.00
Total tax	$2,400.00

JAMES W. LAMBERT,
Tax Collector, Adams County.

118 EXHIBIT "D."

STATE OF TENNESSEE, }
County of Shelby. }

Personally this day appeared before me, the undersigned, a commissioner duly appointed for the State of Mississippi, Jas. M. Edwards, vice-president and cashier of the Louisville, New Orleans

and Texas Railway Company, who, being duly sworn, deposes and says that he is vice-president and cashier of the Louisville, New Orleans and Texas Railway Company, formed by the consolidation of the Memphis & Vicksburg Railway Company with several other railway companies under authority of an act of the legislature of the State of Mississippi, and that prior to such consolidation he was vice-president and cashier of each of the several companies out of which the Louisville, New Orleans and Texas railway was created.

Affiant further saith that the Memphis and Vicksburg Railway Company and said Louisville, New Orleans & Texas Railway Company *has* during the year 1891 actually and in good faith paid and applied to the payment of debts and liabilities which they may have incurred in the construction of said road or for money borrowed by said company upon lands or otherwise to be used in constructing said road a sum equal to the aggregate of taxes—State, county, municipal or other—assessed against the property of said company in the whole State of Mississippi and in the county of Adams a sum greater than the amount of taxes due on the property of said company in said county. Affiant further saith that this company has not as yet earned sufficient profits to enable it to declare and pay to the stockholders an annual dividend on its capital stock over and above the payment of its debts and liabilities.

JAS. M. EDWARDS,
Vice-President and Cashier.

See section 21 of act incorporating the Mobile & North Western Railroad Company and act supplemental to the acts of incor-
119 poration of certain railroad companies, Acts 1870, pages 268 and 327, which require tax collectors to give to above railroad company a receipt in full for State, county, and municipal taxes.

Sworn to and subscribed before me this 14th day of January, 1892.

[SEAL.]

H. B. BELT,
Commissioner for Mississippi.

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *Feb'y 24th*, 1892.

On advice of counsel I respectfully decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R., Natchez division, in the county of Adams & State of Mississippi for the year 1891, said taxes not having been paid and the within affidavit not being regarded by me as sufficient to warrant me in receiving — in lieu of the said taxes or to justify me in giving such receipt.

JAS. W. LAMBERT,
Collector, Adams County.

Received of the Louisville, New Orleans & Texas Railway Company this — day of ——, 18—, payment in full of all State, county, and municipal taxes due on its property in the county of Adams,

of the State of Mississippi, for the year 1891, which said company has the right under the laws of said State to apply to the payment of debts or liabilities which said company or its predecessors may have
120 incurred in the construction of its road or for money borrowed by said company or its predecessors to be used in constructing said road or paying debts incurred in constructing same; said payment of the taxes aforesaid is made by said company delivering to me, as sheriff of the said county of Adams, an affidavit made by James M. Edwards, vice-president and cashier of said company, setting forth that the amount of said taxes for the year 1891, as aforesaid, have actually and in good faith been — and applied by said company during the year 1891 in payment of the debts incurred or money borrowed, as aforesaid, as provided for by section 21 of an act entitled "An act to incorporate the Mobile & Northwestern railroad," approved July 20th, 1870, and of section 5 of an act to authorize the Memphis & Vicksburg Railroad Company — the Mississippi Valley and Ship Island Railroad Company to effect a consolidation, approved March 3rd, 1882, and that said company has not yet earned sufficient profits to enable it to declare a dividend on its capital stock over and above the payment of its debts and liabilities.

——— ———,

Sheriff and Tax Collector of Adams County, Mississippi.

Injunction Bond.

STATE OF MISSISSIPPI, *Adams County,* } *ss:*

Know all men by these presents that we, the Louisville, New Orleans & Texas Railway Company, as principal, and Audley C. Britton and S. E. Rumble, as sureties, are held and firmly bound unto the State of Mississippi in the sum of six thousand dollars, to be paid to the said State of Mississippi; to which we severally bind ourselves, our heirs, executors, administrators, or assigns.

Thus signed and sealed by us this 29th day of February, A. D. 1892.

121 The condition of this obligation is such that whereas the above-bounden The Louisville, New Orleans & Texas Railway Company has filed *his* bill of complaint in the office of the chancery clerk of said county against James W. Lambert, sheriff and tax collector of Adams county, Mississippi, defendant, and has thereupon obtained from his honor Claude Pintard, chancellor of the 4th chancery district in and for said county and State, his fiat for the issuance of an injunction, as prayed for in said bill of complaint, upon entering into bond as required by law: Now, if the said complainant, The Louisville, New Orleans & Texas Railway Company, shall well and truly pay all money and costs due or to become due to the said James W. Lambert, sheriff & tax collector of Adams county, Mississippi, and also such costs and damages as shall be awarded against the principal in this bond in case the said injunction shall be dis-

solved, then this obligation to be void; otherwise to remain in full force and effect.

THE LOUISVILLE, NEW ORLEANS & TEXAS RAILWAY COMPANY, [SEAL.]
By WILL T. MARTIN, *Agent & Att'y.* [SEAL.]
A. C. BRITTON. [SEAL.]
S. E. RUMBLE. [SEAL.]

STATE OF MISSISSIPPI, }
Adams County. }

Before me, the clerk of the chancery court of said county, personally appeared A. C. Britton and S. E. Rumble, who, being duly sworn, upon their oaths say that they are each worth the amount and penalty of the within bond, in visible property in this State, over and above their liabilities, securities, mortgages, &c., and above the exemption laws of this State as now in force.

A. C. BRITTON.
S. E. RUMBLE.

Sworn to and subscribed before me this 29th day of February, A. D. 1892.

ALLISON H. FOSTER, *Clerk.*

122 Approved by me this Feb'y 29th, 1892.
ALLISON H. FOSTER, *Clerk.*

"*Subpœna.*"

THE STATE OF MISSISSIPPI, } *To wit:*
Adams County, }

The State of Mississippi — James W. Lambert, sheriff & tax collector of Adams county, Mississippi, Greeting:

For certain causes offered before us in our chancery court of Adams county, we command and strictly enjoin you that, laying all other matters aside and notwithstanding any excuse, you personally appear at the chancery court of Adams county, to be holden at the court-house, in the city of Natchez, on the first Monday in March, 1892, next ensuing, to answer a bill of complaint for an injunction, &c., exhibited against you by The Louisville, New Orleans & Texas Railway Company, complainant, in our said court.

And further to do and receive what our said court shall have considered of in this behalf, and this you shall in nowise omit, under the penalty of one hundred dollars, as well as the consequences that may fall thereon; and have then there this writ.

To the coroner of Adams county to execute and return.

Issued the 29th day of February, A. D. 1892.

[SEAL.] ALLISON H. FOSTER, *Clerk.*

Endorsed on back of said summons is the following:

Received February 29th, 1892, & executed this Feb'y 29th, 1892,

by delivering a true copy of the within writ to James W. Lambert, sheriff & tax collector, in person. Patrick Foley, coroner. Fee, $2.00.

123 *Writ of Injunction.*

THE STATE OF MISSISSIPPI, *Chancery Court of Adams County,* } *To wit:*

To James W. Lambert, sheriff & tax collector of Adams county, Miss., Greeting:

Whereas it hath been represented to us in our court of chancery on the part of The Louisville, New Orleans & Texas Railway Company, complainant, that it has lately exhibited its bill against you, James W. Lambert, sheriff & tax collector of Adams county, Mississippi, defendant, to be relieved touching the matters in said bill contained:

We therefore, in consideration of the premises and of the allegations in said bill contained, strictly enjoin*ed* and command you, the said James W. Lambert, sheriff & tax collector of Adams county, Mississippi, under the penalty of six thousand dollars, to be levied of your goods and chattels, lands and tenements, to our use, that you absolutely refrain from further proceeding to collect from the Louisville, New Orleans & Texas Railway Company the taxes in Adams county, Mississippi, levied for the year 1891, for the State and county, against the Natchez, Jackson & Columbus Railroad Company, on depot grounds, and also the taxes levied on the personal assessment of 1891 against the Louisville, New Orleans & Texas Railway Company for the State and county for the year 1891, in Adams county, Mississippi.

And from any further proceedings against the said complainant touching any of the matters in said bill contained until our said court shall make another order to the contrary.

Witness the Honorable Claude Pintard, judge of the 4th chancery district of said State, the 29th day of February, one thousand eight hundred and ninety-two, and seal of said court.

Issued the 29th day of February, 1892.

124 To the coroner of Adams county to execute and return.

[SEAL.] ALLISON H. FOSTER, *Clerk.*

The following endorsement on the back of said writ is in the following words and figures, to wit:

Received February 29th, 1892, and executed this 29th of Feb'y, 1892, by delivering a true copy of the within writ to James W. Lambert, sheriff & tax collector, in person. Patrick Foley, coroner. Fee, $2.00.

Demurrer of Defendant.

STATE OF MISSISSIPPI, }
Adams County. }

Chancery Court of said County, March Term, 1892.

LOUISVILLE, NEW ORLEANS — TEXAS Railway Company
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector of Adams County, Mississippi.

No. 1174. Demurrer of Def't.

The demurrer of said James W. Lambert, sheriff and tax collector of Adams county, Mississippi, to the bill of complaint of said Louisville, New Orleans & Texas Railway Company.

The said defendant demurs to said bill and prays the judgment of said court if he shall make any further answer thereto, and he shows to the court the following causes of demurrer:

1. The said complainant hath not in and by its bill made or stated such a case as doth or ought to entitle it to any such relief as is thereby sought and prayed for against this defendant.

2. It appears by complainant's own showing in & by its said bill of complaint that it is not entitled to the relief prayed by its said bill against this defendant.

3. The allegations of said bill do not show any reason or cause why said defendant, the sheriff, &c., of said Adams county, should be restrained or enjoined from proceeding to collect by sale the
125 taxes mentioned in said bill of complaint, which collection and sale are sought and prayed in said bill to be enjoined.

4. The facts and allegations stated and set forth in said bill do not show that the complainant is entitled to the so-called exemption from taxation alleged to have been granted to the Natchez, Jackson & Columbus Railroad Company.

5. The said affidavit (Exhibit D to complainant's bill) of Jas. M. Edwards, V. president and cashier of the Louisville, New Orleans & Texas Railway Company, shows on its face that the same is not sufficient to warrant the sheriff & tax collector of said Adams county in receiving the same in lieu of the taxes sought to be collected by said sheriff and to be enjoined by said bill of complaint or to justify the sheriff, &c., in giving the receipt demanded or any receipt for said taxes.

K. PALMER LANNEAU,
Sol. for Def't.

I hereby certify that I believe the foregoing demurrer to be maintainable.

K. PALMER LANNEAU,
Sol. for Def't.

Final Decree.

LOUISVILLE, NEW ORLEANS & TEXAS RAILWAY COMPANY
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector, &c. } No. 1174.

This cause coming along to be heard on the bill of complaint and the exhibits filed therewith and the demurrer of defendant to said bill, the court, after hearing argument thereon & after mature consideration of the case, being now fully advised in the premises, doth consider, order, adjudge, and decree that the said demurrer of defendant be, and the same is hereby, sustained: that the said bill of complaint be, and the same is, dismissed, and that the
126 injunction heretofore granted in this case be, and the same is hereby, wholly dismissed. It is further ordered, adjudged, and decreed that the said complainant be taxed with all costs of this case, and that execution issue therefor.

And the said complainant, by its solicitor, having in open court prayed and demanded an appeal from the said judgment and decree, the same is hereby granted upon the said complainant entering into bond and complying with the statute in such cases made & provided.

Ordered, adjudged, and decreed this 22d day of October, A. D. 1892.

CLAUDE PINTARD, *Chancellor.*

"Appeal Bond."

And afterwards, to wit, on January 21st, A. D. 1893, the complainant in said cause filed an appeal bond, same being in the words and figures following, to wit:

THE STATE OF MISSISSIPPI, }
Adams County. }

Know all men by these presents that we, the Louisville, New Orleans & Texas Railway Company, William G. Yerger, Leroy Percy, and Audley C. Britton, are held and firmly bound unto James W. Lambert, sheriff and tax collector of Adams county, in the sum of six thousand dollars; for the payment of which, well and truly to be made. we bind ourselves, our heirs, executors, administrators, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 31st day of January, A. D. 1893.

The condition of the above obligation is such that wherras on the 22nd day of October, 1892, a decree was rendered by the chancery court of Adams county, State aforesaid, in favor of said James W. Lambert, sheriff & tax collector of said county, for the sum of twenty-eight hundred & eighty dollars, besides cost of suit,

wherein the said Louisville, New Orleans & Texas Railway
127 Company has prayed for and obtained an appeal, operating as a supersedeas, returnable to the next term of the supreme court of the State aforesaid, now, if the said Louisville, New Orleans & Texas Railway Company shall prosecute *his* appeal with effect and shall well and truly pay and satisfy the judgment, damages, and costs in case said decree shall be affirmed, and shall also perform the sentence, judgment, or decree the supreme court shall award in the premises, then the above obligation to be void; otherwise to remain in full force and virtue.

THE LOUISVILLE, NEW ORLEANS & TEXAS RAILWAY COMPANY. [SEAL.]
WILL T. MARTIN, *Agent and Attorney.*
WM. G. YERGER,
By WILL T. YERGER, [SEAL.]
His Agent & Atto.-in-fact.
LEROY PERCY.
WILL T. MARTIN, [SEAL.]
His Agent and Attorney in-fact.
A. C. BRITTON. [SEAL.]

I hereby approve this bond this January 31st, 1893.

ALLISON H. FOSTER,
Chancery Clerk.

THE STATE OF MISSISSIPPI, } ss:
Adams County, }

I, Allison H. Foster, clerk of the chancery court of said county, do hereby certify that the foregoing page and what precedes this certificate on this page contains and exhibits a true and perfect copy of the original appeal bond as the same was this day copied and compared with the said original bond, the said original bond being sent to the supreme court, at Jackson, Miss., with the transcript in cause 1174 on the general docket of my said court.

128 Witness my hand and the seal of said court, at the city of Natchez, this February 11th, A. D. 1893.

ALLISON H. FOSTER,
[SEAL.] *Clerk of the Chancery Court.*

Demurrer to Residue of Bill.

And as to all the rest, residue, and remainder of the said bill of complaint of complainants other than those above answered by plea, the said defendant says he does demur thereto, and for causes of demurrer shows the following:

1. The said complainants have not in & by their said bill of complaint (as to said residue & remainder) made or stated such a case as doth or ought to entitle them to any such relief as is thereby sought & prayed against this defendant.

2. It appears by complainants' own showing in and by their

said bill of compliant that they are not entitled to the relief prayed against this defendant.

3. The allegations of said bill do not show any valid or sufficient reason why said sheriff & tax collector should be restrained or enjoined from proceeding to collect said taxes (of the year 1892) mentioned & sought to be enjoined in said bill of complaint.

4. The allegation- of said bill do not show that complainants or either of them are entitled to the so-called exemption from taxation alleged to have been granted to the said Natchez, Jackson & Columbus Railroad Company.

5. The said bill of complaint shows no cause or valid reason why the said defendant sheriff & tax collector aforesaid should have been or should be required or should now be compelled to give to complainants or either of them a receipt for said taxes of 1892, for which receipt is demanded in said bill & the prayer thereof.

129 K. PALMER LANNEAU,
Sol. for Def't.

I hereby certify that I believe the above and foregoing demurrer ought to be sustained.

K. PALMER LANNEAU,
Sol. for Def't.

And afterwards, on March 9th, 1893, the demurrer to plea, &c., was filed, same being in the words and figures following, to wit:

STATE OF MISSISSIPPI, }
Adams County. }

In Chancery Court, March Term, 1893.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY *et al.* *vs.* JAMES W. LAMBERT, Sheriff and Tax Collector of Adams County, Mississippi. } 1216.

And now comes the complainants in the foregoing cause; and, as to the plea of *res adju-cata* by the defendant in the above cause pleaded, and which said plea was by the said defendant filed therein on the 6th day of March, 1893, say that said plea is not good and sufficient in law, and therefore complainants do demur to said plea and pray the judgment of said court if they should make any further or other answer to said plea, and for cause of demurrer assigns the following, viz:

1. Because the bill of complaint in said cause shows that it is a bill asking an injunction against the collection of a privilege tax levied and assessed in 1892 and claimed by the defendant to be due for said year 1892, while said plea of *res adju-cata* filed by said defendant in above cause shows that the taxes set forth therein were claimed to be due for the year 1891.

2. Because the cause of action set forth in the bill of complaint

in the above cause is not the same as that set forth and referred to in the plea of *res adju-cata* by the defendant filed herein.

3. Because the above suit and that set forth and referred to in the plea of *res adju-cata* is between different parties.

130 4. Because said plea of *res adju-cata* does not sufficiently set forth the pleadings and decree in the cause therein referred to as No. 1174 to enable the court to determine from the record what was the cause of action therein or the full merits of the controversy between the parties thereto.

5. Because the facts as set forth in said plea of *res adju-cata* are not sufficient to constitute a legal bar to the action of complainants in the above suit or any part of said action.

6. Because the decree as set out in said plea of *res adju-cata* is not an estoppel to the right of action of complainants herein.

WILL T. MARTIN &
YERGER & PERCY,
Sols. for Complainants.

I hereby certify that I believe the above and foregoing demurrer ought to be sustained.

WM. G. YERGER,
Sol. for Complainants.

Afterwards, on —, 1893, order to strike out demurrer to plea was filed, same being in the words and figures following, to wit:

NATCHEZ, JACKSON & COLUMBUS RAILWAY COMPANY *et al.* *vs.* JAMES W. LAMBERT, Sheriff & Tax Collector. } No. 1216.

This cause coming on to be heard on motion by defendant to strike from the files of said cause the demurrer of complainants, filed March 9th, 1893, to defendant's plea & to require said complainants forthwith to set down said plea for argument upon its sufficiency in law or to reply to same, the court, after hearing argument & upon due consideration of said motion, doth order that the said motion be, and the same is hereby, sustained, and the said demurrer is hereby ordered to be stricken from the said files; whereupon said complainants forthwith filed their certain replication to said plea.

Ordered and decreed 11 M'ch, 1893.

131 CLAUDE PINTARD, *Chancellor.*

On March 10th, 1893, replication to plea was filed, same being in the words and figures following, to wit:

STATE OF MISSISSIPPI, }
Adams County. }

In Chancery Court, March Term, 1893.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector. } 1216.

And now comes the complainants in the above cause, and as to the plea of *res adju cata* of the said defendant, by him therein pleaded, say that the said complainants, by reason of anything by him, the said defendant, in said plea alleged and pleaded, ought not to be barred from having and maintaining their aforesaid action against the said defendant, because they say there is no record of the said supposed recovery and decree in the said plea mentioned remaining in the chancery court of the county of Adams, of the State aforesaid, in manner, form, and of the effect as the said defendant hath in his said plea alleged; and, further, because the decree rendered or as set forth in said plea has been appealed from and said decree has been fully and entirely superseded, and which said appeal and supersedeas, as aforesaid, are now pending in the supreme court of the State, and said decree is not now operative and in force as to and against complainants.

And this complainants are ready to verify. Wherefore, &c.

WILL T. MARTIN &
YERGER & PERCY,
Sols. for Complainants.

132 And afterwards, on the 14th day of March, 1893, the decree on issue joined by plea & replication was filed, same being in the words and figures following, to wit:

NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY *et al.*, Complainants,
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector, Defendant. } No. 1216.

This cause coming on to be heard upon the plea of said defendant to a part of the bill of complaint herein, said plea having been filed on the 6th day of March, A. D. 1893, and on the replication of said complainants to said plea, said replication having been filed March 10th, 1893, and the issues joined by said plea and said replication having been tried on the evidence submitted to the court, viz., the pleadings, exhibits, orders, proceedings, and record on file in this court in that certain cause entitled The Louisville, New Orleans & Texas Railway Company *vs.* James W. Lambert, sheriff & tax collector of Adams county, Mississippi, and numbered No. 1174 on the general docket of this court, the court, after an examination of said pleadings, exhibits, orders, proceedings, & record in said cause No. 1174, so offered in evidence, upon the issues joined by said

plea & said replication finds for defendant; whereupon it is considered by the court and so ordered, adjudged, and decreed that this present cause now pending in this court and numbered No. 1216 of the general docket of this court do abate, and the same is hereby abated, as to so much and such parts of the complainant and demand of complainants herein as seek to bring into question the right of said defendant, the said sheriff & tax collector of Adams county, to collect the taxes for the year 1891 on the property mentioned in said bill of complaint herein, or to raise an- issue or issues with regard to said taxes or their legality, or in any manner asks or seeks relief as to said taxes for the year 1891, and that as to all such parts of said bill the said defendant be, and he is hereby,
133 discharged and relieved from making any other or further answer than that which is set up in and by his said plea.

Ordered, adjudged, and decreed the 10th day of March, 1893.
CLAUDE PINTARD, *Chancellor.*

And afterwards, on the 25th day of March, 1893, the final decree in said cause No. 1216 was filed, same being in the words and figures following, to wit:

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY *et al.*
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector. } No. 1216.

This cause coming on for hearing upon the bill of complaint of complainants, the exhibits thereto, and the demurrer of defendant to a part of said bill, being so much and such part thereof as questioned or denied the right and authority of the sheriff & tax collector of Adams county to collect the taxes of the year 1892, in said bill mentioned, being the State privilege tax for the year 1892, assessed against the "Louisville, New Orleans & Texas Railway Company, Natchez, Jackson & Columbus division," and sought to restrain and enjoin said sheriff & tax collector from collecting said privilege tax, the court, after hearing argument thereon and after maturely considering the same, being now fully advised in the premises, doth consider and so order, adjudge, and decree that said demurrer be, and the same is hereby, sustained, and this cause and suit as to all the rest, residue, and remainder of said bill of complaint and cause (being such part and portions of said bill as sought to question or deny the right and authority of said sheriff & tax collector to collect the said State and county taxes on the property described therein for the year 1891) having been abated by the decree of this court rendered in this cause on the 10th day
134 of March, 1893, and, upon the sustaining of the said demurrer, said complainants not offering or desiring to amend their said bill of complaint, it is now thereupon further considered and so ordered, adjudged, and decreed that the injunction heretofore granted in this cause be, and the same is hereby, wholly dissolved,

and that the said bill of complaint herein be, and the same is hereby, dismissed.

It is further ordered, adjudged, and decreed that the said James W. Lambert, sheriff & tax collector, do have and recover of and from the said Natchez, Jackson & Columbus Railroad Company and the said Yazoo & Mississippi Valley Railroad Company, complainants, and Leroy Percy, William G. Yerger, and George W. Koontz, their sureties on the injunction bond herein, the sum of one hundred and forty-six $\frac{30}{100}$ dollars ($146.30), being the aggregate of the following sums, to wit:

Amount of the State privilege tax above mentioned, $133.00, ten per cent. thereon, $13.30, being the statutory damages, and all costs herein, accrued and to be taxed, and that execution issue therefor according to the statute.

Whereupon the said complainants, by their solicitors, prayed an appeal both from the said decree abating said cause and suit as to the said taxes for the year 1891 and the said decree sustaining demurrer, dissolving the injunction, and dismissing said bill of complaint, returnable to the supreme court of this State on the 3rd Monday in April, A. D. 1893, which was granted, the same to operate as a supersedeas, upon said complainants giving bond in the sum of $292.60, to be approved by the clerk in vacation, the said bond to be payable to the State of Mississippi and conditioned according to law.

Ordered, adjudged, and decreed this 23rd day of March, A. D. 1893.

CLAUDE PINTARD, *Chancellor.*

135 STATE OF MISSISSIPPI, }
Adams County, } *ss:*

I, Allison H. Foster, clerk of the chancery court of said county, do hereby certify that the foregoing one hundred and fourteen pages contain and exhibit a true and perfect copy of the original and amended bill, with fiat of the judge, injunction bond, summons, writ of injunction, with all the exhibits, pleadings, proofs, orders, agreements, and the decree appealed from in cause No. 1216, on the general docket of the chancery court of Adams county, as the same now appear on file or of record in my office.

In witness whereof I have unto set my hand and the seal of said court this the 7th day of April, A. D. 1893.

ALLISON H. FOSTER, *Clerk.*

Bill of Costs.

Clerk Foster:

Making transcript	35.00
Certificate	.50
Issuing summons	.75

Making copy of "appeal bond"	1.00
Cash advance to bind transcript	.60
	37.85
Coroner Pat. Foley, serving summons	2.00
Total costs	$39.85

Correct E. & C. E.
Attest: ALLISON H. FOSTER, *Clerk.*
Natchez, Miss., April 7th, 1893.

136 Know all men by these presents that we, the Natchez, Jackson & Columbus Railroad Company and the Yazoo & Mississippi Valley Railroad Company, as principals, and the Merchants' and Planters' Bank of Greenville, Miss., Leroy Percy, and William G. Yerger, as sureties, are held and firmly bound unto the State of Mississippi in the penal sum of two hundred ninety-two $\frac{60}{100}$ dollars; to the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, assigns, and successors.

Signed and dated this 29th day of March, 1893.

The condition of the above obligation *on* is such that whereas on the 24th day of March, 1893, there was rendered by the chancery court of Adams county, Mississippi, a decree sustaining the demurrer of the defendant therein and dismissing the bill of complaint in the suit of The Natchez, Jackson & Columbus Railroad Company and The Yazoo & Mississippi Valley Railroad Company against James W. Lambert, sheriff & tax collector of Adams county, Mississippi, and numbered on the dockets of the chancery court of Adams county No. 1216, and from which said decree the complainants in said cause, the above-bound Natchez, Jackson & Columbus Railroad Company, have prayed an appeal they have asked to operate as supersedeas of said decree sustaining said demurrer and dismissing said bill, as aforesaid, and which said appeal, and to operate as a supersedeas, as aforesaid, has been granted upon the execution of this bond:

Now, if the Natchez, Jackson & Columbus Railroad Company and the Yazoo & Mississippi Valley Railroad Company will satisfy the decree complained of and appealed from, as aforesaid, and also such final judgment as may be made in the above cause and all costs therein if the decree appealed from be affirmed, then this obligation shall be void; otherwise to remain in full force and

137 effect.

NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY,
By YERGER AND PERCY, *Att'ys.*
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY,
By YERGER & PERCY, *Att'ys.*
WM. G. YERGER.
LEROY PERCY.
MERCHANTS' AND PLANTERS' BANK OF GREENVILLE, MISSISSIPPI,
By J. S. WALKER, *President.*

I, C. M. Johnson, clerk of the chancery court of Washington county, Mississippi, do hereby certify that the Merchants' and Planters' Bank of Greenville, Mississippi, Leroy Percy, and Wm. G. Yerger, sureties on the foregoing bond, are all freeholders of the county and State aforesaid, are solvent, and are good and sufficient as sureties on the aforesaid bond.

Given under my hand and official seal this 29th day of March, 1893.

C. M. JOHNSON,
Chancery Clerk.

I hereby approve the foregoing appeal bond this March 30th, 1893.

ALLISON H. FOSTER,
Chancery Clerk, Adams County, Mississippi.

138 The State of Mississippi to the coroner of Adams county, in said State:

You are hereby commanded to summon James W. Lambert, sheriff and tax collector of Adams county, or K. Palmer Lanneau, his attorney of record, appellee, or his attorney in fact or of record, if to be found in your county, to appear before the supreme court of the State of Mississippi, at the capitol, in the city of Jackson, in the county of Hinds and State aforesaid, on the 17th day of April, A. D. 1893, then and there to answer the appeal of The Natchez, Jackson & Columbus R. R. Co. *et al.* from a decree of the chancery court of the county of Adams, in said State, rendered against said appellant on the — day of March, A. D. 1893, at the March term, A. D. 1893, of said chancery court in favor of said appellee, for sustaining the demurrer of the appellee, &c., to appellants' bill of complaint, No. 1216 on the general docket of the said chancery court of Adams Co., Miss., and dismissing the appellants' bill of complaint in said cause; and have there then this writ.

Given under my hand and the seal of said chancery court, at my office, in Natchez, Miss., and issued this the 30th day of April, A. D. 1893.

ALLISON H. FOSTER,
Chancery Clerk.

139 Supreme Court, March Term, 1893.

MONDAY, *April* 24, 1893.

L., N. O. & T. R'Y Co.
v.
JAS. W. LAMBERT, Sheriff, &c. } 7311.

and

N., J. & C. R. R. Co. ET AL.
v.
JAS. W. LAMBERT, Sheriff, &c. } 7406.

and

N., J. & C. R. R. Co. ET AL.
v.
JAS. W. LAMBERT, Sheriff, &c. } 7406.

Argued orally by Edward Mayes for appellants.

TUESDAY, *April* 25, 1893.

L., N. O. & T. R'Y Co.
v.
JAS. W. LAMBERT, Sheriff, &c. } 7311.

and

N., J. & C. R. R. Co. ET AL.
v.
JAS. W. LAMBERT, Sheriff, &c. } 7406.

and

N., J. & C. R. R. Co. ET AL.
v.
JAS. W. LAMBERT, Sheriff, &c. } 7407.

140 Supreme Court, March Term, A. D. 1893.

MONDAY, *May 8th*, 1893.

Judgment.

This cause having been submitted on a former day of this term on the record herein from the chancery court of Adams county, and this court, having sufficiently examined and considered the same, and being of opinion that there is error therein, doth *the* order, adjudge, and decree that the decrees of said chancery court rendered in this cause at the March term thereof, A. D. 1893, on the 10th and 23rd days of March, 1893, be, and the same are hereby, reversed, and this cause remanded for further proceedings in accordance with the opinion of the court this day delivered herein, with leave to defendant to answer within thirty days after mandate herein is filed in the court below, and that the appellee do pay the costs of this appeal, to be taxed, &c.

141 "*Opinion.*"

N., J. & C. R. R. Co. ET AL.
v.
JAS. W. LAMBERT, Tax Collector. } 7406 & 7407.

CAMPBELL, C. J., delivered the opinion of the court.

It was not known what interpretation would be put on § 13, *act* XII, of the constitution of 1869, and sec. 21 of the act to incorporate the Mobile & North Western Railroad Company, approved July 20th, 1870, Acts of 1870, p. 255, was a device to meet an assumed view of that section of the constitution. It took the form of an irrepealable (?) agreement by the State with the company that all taxes to which it might be subject for thirty years should be applied to payment for constructing said road or debts incurred for that, and that the affidavit of the president or cashier of the company that such application had been made during the year should be accepted by tax collectors in lieu of money for such taxes. A proviso is to the effect that whenever the profits of the company should enable it to pay an annual dividend of 8% upon its capital stock the foregoing agreement should terminate. Although this was thin disguise to evade constitutional restraint apprehended to be contained in the section mentioned, it was resolved to secure the benefit of the provision to other railroad companies, and on August 8, 1870, an act of the legislature was approved to extend the provisions of the twenty-first section of the act to incorporate the Mobile & North Western Railroad Company to several other companies, and among them to the Natchez *Natchez* and Jackson Railroad Company, which afterwards became the Natchez, Jackson & Columbus Railroad Company, and they were by said act declared to be entitled to "all the rights, privileges, immunities, and franchises" granted by said 21st section. By act approved February 25, 1875, Acts, p. 66, every railroad company in the State was required to pay a privilege tax,
142 and on March 5, 1878, Acts, p. 233, an act was approved which recites the act of August 8, 1870, cited above, and that doubt as to its validity because of its history existed, and to put the matter beyond doubt as to this the 21st section aforesaid was re-enacted and applied to the charter of the Natchez, Jackson & Columbus Railroad Company. In 1878 this court interpreted section 13, art. XII, of the constitution of 1869 to mean that the property of corporations for pecuniary profit could not be placed beyond the reach of the taxing power; that the legislature could forbear during pleasure to tax, but could at any time rewake a grant of immunity from taxation contained in any act passed since the adoption of the constitution of 1869.

Mississippi Mills *v.* Cook, 56 Miss., 40.

By the Code of 1880 each railroad in the State was subjected to taxation, but in 1884, by an act of March 12, Acts of 1884, p. 29, the Code was amended so as to restore to the Natchez, Jackson & Co-

lumbus Railroad Company the exemption from taxation "provided in its charter and acts amendatory thereof." It is worthy of remark that this act characterizes the exemption as "from taxation," as plainly it was. The revenue act of 1890 contains this exemption to railroads entitled to it. Acts 1890, p. 6.

It was within the power of the legislature at any time to annul the *argument* contained in the 21st section aforesaid. It had complete control of the matter and could revoke provision for immunity from paying taxes, which is undoubtedly immunity from taxation, for paying is the burden. Instead, it manifested a determination to preserve this immunity, and restored it to the N., J. & C. R. R. Co. in 1878 and 1884, and guarded it against appeal by act of 1890, as shown above, and by act approved February 19th, 1890, Acts, p. 675, said company was authorized "to sell absolutely all or any part of its railroad and other property, together with all franchises, rights, powers, privileges, and immunities," &c.,
143 and by the 2 sec. of said act the Louisville, New Orleans & Texas Railway Company and the Natchez, Jackson & Columbus Railroad Company were authorized to consolidate with each other, under the name of the former, upon such terms as they might agree upon.

The question is as to the intent of the legislature as to the continuance of the immunity from taxation it enjoyed after a sale by the N., J. & C. Railroad Co. or consolidation as authorized. It is not a question of legislative power, for that is undoubted.

Nor are the considerations which justly cause courts to lean against a grant of immunity from taxation so influential here, as they often are, for there can be no danger of tying the hands of the taxing power. It is merely a question of legislative purpose deducible from the language employed considered in connection with the history of the dealing with the subject by the legislature. Thus considered, we have no hesitation to declare that the intuition was that a purchaser should get the railroad just as held by the N., J. & C. R. R. Co., with all franchises, rights, powers, privileges, and immunities possessed by it under the previous legislation, and in authorizing consolidation by the two companies *a*med the purpose was that the united company should enjoy the franchises, rights, powers, privileges, and immunities each had before, and that the State in consenting thus must be held to have contemplated that the affidavit to evidence the application of money to pay for construction, which was to be a legal tender for taxes, might be made by the proper officer of the consolidated company; and as to the remote contingency on which the arrangement to escape the burden of taxation was to cease to be operative, the State may be justly assumed to have intended to waive that condition or else to have looked to its right to claim a cessation of the immunity when the condition*ed* mentioned in the proviso of the 21st section *mentioned* should exist as to the N., J. & C. R. R. Co. as a component part of the consolidated company; but it is to be remembered that the State was not parting with anything; was renouncing no right; fore-

going nothing, except for the time being, to let matters
144 stand as they were and by tye light of this act is to be interpreted.

This case is very unlike Railroad *v.* Maine, 96 U. S., 499. There the right of the State to tax was involved and important requirements made of the several companies which by consolidation made a new company, of which no requirement was made with reference to those duties imposed on the separate companies having reference to taxation, and the new company was held subject to the power of the State to tax. Nothing was required of the N., J. & C. R. R. Co. on this subject, but it had the privilege to pay taxes by a prescribed affidavit, which could be as well made by an officer of a new company having control of it as by one of the N., J. & C. Co., and as to the very remote contingency in the proviso that could be availed of as well under new control as under the old. The substantial thing aimed at was to free the road from taxation for thirty years by the easy terms of making an affidavit, but in truth all knew this was mere grace and could be withdrawn at will. The delusion that the restriction of the constitution could be escaped by the circuity employed in the 21st section of the charter of the Mobile and N. W. Railroad Co. had been dispelled by the authorization utterance of this court, and the legislature was willing for immunity to stand as before until a future day, when it should see proper to put and end to it. Favor had been shown to the N., J. & — R. R. Co., and it was intended that it should be, as before, in the hands of a purchaser or in union with the L., N. O. & T. R'y Co. It was known the State would loose nothing, and it was supposed that the interest of the State would be promoted by a transfer as authorized.

We approve the doctrine so well put in Tennessee *v.* Whitworth, 117 U. S., 139, and find it much more applicable to this case than Railroad *v.* Maine, 96 U. S., 499, is.

If the words "rights, privileges, and immunities," used in the act of 1890, authorizing sale or consolidation of the N., J. & C.
145 R. R. Co., do not include its immunity from taxation, it would be difficult to pass it except by an express declaration that exemption from taxation should be among the rights, privileges, and immunities to be transferred. Especially must these words be held to include the immunity from taxation, when they are the very words used in the act of the legislature by which the immunity granted by the 21st section of the charter of the Mobile & N. W. Railroad Co. was extended to the N., J. & C. R. R. Co. and other companies. Acts 1870, p. 327.

We think it clear that the immunity possessed by the N., J. & C. R. R'd Co. was not lost by its sale and consolidation, which was expressly authorized, and that as to this everything remained as before.

By their charters the L., N. O. & T R'y Co. and the Y. & M. V. R'y Co. were empowered to consolidate, and the immunity claimed by the L., N. O. & T. R'y Co. for the right to pay the taxes or what was the *the* N., J. & C. R. R'd Co. was not lost by its merger in the Y. & M. V. R'y Co., but it went into that company with all its

rights, privileges, and immunities as far as could be in the merger, and nothing was lost thereby except as necessarily resulted from the union.

Section 181 of the constitution of 1890 has no effect as to the exemption claimed. It left the matter as if the constitution had not been adopted. It let it alone, to rest upon legislation unaffected by the fundamental law.

The plea of former adjudication was bad. The suit in which a decree dismissing the bill was rendered and relied on as an adjudication or as a pending suit was fatally defective. The complainant could not take any benefit from it. It was founded on an affidavit pleaded as a tender for the taxes of 1891, which had no reference to the N., J. & C. R'd, but to a different one. The demurrer to the bill was rightly sustained on this ground, and the decree sustaining the demurrer and dismissing the bill in that case, now here on appeal, will be affirmed.

146 We reverse the decrees made in this case sustaining the plea and demurrer and dismissing the bill and remand the case for further proceedings in the court below in accordance with this opinion.

The defendant may answer within thirty days after mandate filed in the chancery court.

Reversed and remanded.

To be reported.

(Delivered May 8, 1893. J., 445.)

147 EXHIBIT 3 TO THIRD PLEA.

"*Index.*"

No. 1207.

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148 STATE OF MISSISSIPPI, *Adams County.*

Pleas before the Honorable Claude Pintard, chancellor of the fourth chancery court, district of the State of Mississippi, begun, convened, and held at the court-house, in the city of Natchez, county of Adams and State of Mississippi, on Monday, the sixth day of March, in the year of our Lord one thousand eight hundred and ninety-three.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY ET AL.
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector of Adams County, Mississippi.

Be it remembered that heretofore, to wit, on the 14th day of November, A. D. 1893, the complainants, by their solicitors, Will T. Martin and Yerger and Percy, filed their certain bill of complaint, with Exhibits A, C, D, E, F, and G, in the office of the clerk of the chancery court, the said bill and exhibits being in the words and figures following, to wit:

STATE OF MISSISSIPPI, *Adams County.*

In Chancery Court, to March Term, 1893.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY and The Yazoo & Mississippi Valley Railroad Company, Corporations Duly Incorporated under the Laws of the State of Mississippi, Complainants,
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector of Adams County, Mississippi, a Citizen of the said Adams County and State of Mississippi, Defendant.

To the honorable chancery court of Adams county, Mississippi:

The complainants show to the court that on the 21st day of August, 1870, by act of the legislature of the State of Mississippi, duly enacted and approved as required by the laws of said State *State* of Mississippi, the Natchez & Jackson R. R. was duly and legally incorporated and by said act of incorporation was granted au-
149 thority and was thereby empowered to construct and finally complete a single or double railroad or way from the city of Natchez, in the county of Adams, to the city of Jackson, in the

county of Hinds, of the State of Mississippi; that on the 23rd day of February, 1872, by acts of the legislature of the State of Mississippi, duly enacted and approved as required by the laws of the said State, the charter of the Natchez & Jackson R. R. Co. was amended so as to authorize said company to adopt, at its pleasure, the name and style of the Natchez, Jackson & Columbus Railroad Company, and to build such branches and feeders as might be deemed practicable or necessary and continue its main line from Jackson to Columbus, Mississippi; that by resolution of the board of directors of said Natchez & Jackson R. R. Co., duly passed, it was determined to accept the privilege granted to said company of changing its name to the Natchez, Jackson & Columbus Railroad Company, and said change was accordingly made; that on the 30th day of July, 1870, by act of the legislature of the State of Mississippi, duly enacted and approved according to the laws of said State, the Mobile & North Western Railroad Company was incorporated, and in the charter of said Mobile & North Western Railroad Company there is, among other things, section 21, which is in the following words, to wit:

"SECTION 21. Be it further enacted, That in consideration of the construction of the railroads provided for herein, and of the great benefit which the State will receive, in the development of its agricultural resources by means of said railroad as works of improvement, and also, of the increased value which will thereby be added to the property of the State, thus enabling the State to greatly increase its revenue, without additional and burdensome taxation on the people, the State hereby agrees with said company (and which agreement is irrepealable) that all taxes — which said company shall be subject for the period of 30 years, are hereby appropriated and set apart, and shall be applied to the payment of the debts and liabilities which the said company may have incurred in the construction of said road, or for money borrowed by said company upon lands or otherwise, to be used in constructing said road, or paying debts incurred by said company in constructing same: and it shall be the duty of the tax collector in every county, in each and every year, to give to said company a receipt in full for the amount of said taxes, upon receiving from said company an affidavit made by the president or cashier of said company that the amount of said taxes have actually and in good faith been paid and applied by said company during the year, in payment of the debts incurred or money borrowed as aforesaid, and which receipt shall be in full of all taxes, county, State and municipal, to which said company shall be subject: Provided, however, that whenever the profits of said company shall enable it to declare and pay to the stockholders and annual dividend of eight per cent. on its capital stock, over and above the payment of its debts and liabilities, then the appropriation of the taxes aforesaid, shall cease, and said taxes shall be paid by said company to the tax collector, to be by him paid over as required by law;" that on the 8th day of August, 1870, by an act of the legislature of the State of Mississippi, duly enacted and approved according to the laws of the said State, an act supplemental to the acts of incorporation of certain railroad companies,

the provisions of said section 21 aforesaid, and of an act to incorporate the Mobile & North Western R. R. Co., was made to apply to the following railroad companies, namely: The Memphis & Vicksburg Railroad Company, the Vicksburg, Yazoo Valley & Grenada R. R., the Canton & Cicksburg R. R., the Natchez & Jackson R. R., the Meridian & Red River R. R., the Ship Island, Mississippi City and Paducah R. R., the Elyton & Aberdeen R. R., the Grenada, Louisville & Meridian R. R., and the Greenville & Rolling Fork R. R, and the charters of said companies were so amended by said act as to confer upon said companies all the rights, privileges, immunities, and franchises granted by the act of in-
151 corporation of the said Mobile & North Western R. R. Co., and as embraced and set forth in the 21st section thereof; that on the 5th day of March, 1878, the legislature of the State of Mississippi, by an act supplemental to an act entitled An act supplemental to the acts of incorporation of certain railroad companies, approved August 8, 1870, and which act was duly enacted and approved according to the laws of the State of Mississippi, made all the provisions of said 21st section of said act entitled An act to incorporate the Mobile & Northwestern Railroad Company apply to the Natchez, Jackson & Columbus Railroad Company, and the charter of said R. R. Co. was by said act so amended as to confer upon said Natchez, Jackson & Columbus Railroad Company all the rights, privileges, immunities, and franchises theretofore granted or intended to be granted by and embraced in the 21st section of said act entitled An act to incorporate the Mobile & Northwestern R. R. Co., and by said act all taxes, State, county, municipal, theretofore levied and assessed upon the property of the Natchez, Jackson & Columbus R. R. Co., were by the State of Mississippi and by the provision of said act appropriated and set apart, and were to be applied in the manner and for the purposes mentioned in said 21 section of the act incorporating the Mobile & Northwestern R. R. Co., and that said appropriation and application *was* to continue for 30 years from the 8 day of Aug., 1870; that on the 19 day of Feb'y, 1890, the legislature of the State of Mississippi by an act of that date, duly enacted and approved according to the laws of said State, authorized the Natchez, Jackson & Columbus Railroad Company to sell all or any part of its railroad and other property situated in the State of Mississippi, together with all franchises, rights, privileges, and immunities, unto said company belonging.

Complainants would further show unto your honorable court that on the 18th day of Aug., 1881, the Tennessee Southern Rail-
152 road Company was — and regularly incorporated under and by virtue of the laws of the State of Tennessee; that on the 8th day of August, 1870, the Vicksburg & Memphis Railroad Company, and on the 9th day of March, 1882, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company *was* duly and regularly incorporated under and by virtue of the laws of the State of Mississippi, and that on the 17th day of September, 1881, the New Orleans & Mississippi Valley Railroad Company was duly

and regularly incorporated under and by virtue of the laws of the State of Louisiana.

Complainant would further show unto your honor that by an act of the legislature of the State of Mississippi approved March 3rd, 1882, entitled An act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley and Ship Island Railroad Company to effect a consolidation, the Memphis & Vicksburg and the Mississippi Valley and Ship Island Railroad Company were authorized and empowered to consolidate with each other or any other railroad company or companies that had been incorporated under the laws of the State of Mississippi or any other State, and so that all the companies so consolidated should be merged into and become one company, and by said act it was provided that the company so formed by said consolidation should be deemed and held to be a corporation created by the laws of the State of Mississippi, and should have, enjoy, and possess all the rights, ways, privileges, franchises, property, grants, and immunities which at the time of the passage of the said act were possessed by the companies that might enter into such consolidation, as fully as though as the same were conferred specifically in said act, and to that end the charters of the said consolidating companies should be taken and held as part of said act authorizing the Memphis & Vicksburg Railroad Company to effect a consolidation; that subsequent to the passage of said last-named act an amendment thereto was passed by the legislature of the State of Mississippi, which said amendment is entitled "An act to amend an act entitled An
153 act to authorize the Memphis & Vicksburg R. R. Company and the Mississippi Valley and Ship Island Railroad Company to effect a consolidation, approved March 3rd, 1882;" that said amendatory act was approved March 15th, 1884, and authorized and empowered the Memphis & Vicksburg Railroad Company and any other railroad company or companies incorporated under the laws of this State to consolidate in the manner and upon the terms and conditions and with the rights and privileges and immunities in the said act mentioned with each other or any other railroad company or companies incorporated or organized under the laws of any other State or States, and that such consolidation might be so effected, whether the Mississippi Valley & Ship Island Railroad Company became a party to such consolidation or not; that under and by virtue of the statutes of the respective States of Tennessee and Mississippi, and Louisiana in such cases made and provided, and in consideration of the mutual undertakings, covenants, and agreements then entered into by said companies, the Tennessee Southern Railroad Company, created as aforesaid and then existing under and by virtue of the laws of the State of Tennessee; the Memphis & Vicksburg Railroad Company, a corporation created as aforesaid and then existing under and by virtue of the laws of the State of Mississippi; the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, a corporation created as aforesaid and then existing under and by virtue of the laws of the State of Mississippi, and the New Orleans & Mississippi Valley Railroad

Company, a corporation created as aforesaid and then existing under and by virtue of the laws of the State of Louisiana, entered into and effected the consolidation of each of the said companies into one railroad company, to be thereafter known as the Louisville, New Orleans & Texas Railway Company, and that into said consolidated — the several capital stocks, franchises, grants, immunities, privileges, properties, rights of way, and all property, real or personal and mixed, of the several respective companies hereinbe-
154 fore mentioned entering into said consolidation, as shown by a certified copy of said act of consolidation filed herewith, marked Exhibit "A," and prayed to be taken and considered as a part of this bill; that in pursuance of the authority conferred by said act of Feb'y 19th, 1890, hereinbefore referred to, the Natchez, Jackson & Columbus Railroad Company did, on the 5th day of March, 1890, by deed duly executed and delivered, sell to the Louisville, New Orleans & Texas Railroad Company all of its railroad property situated in the State of Mississippi, and particularly the line of railroad constructed by the said Natchez, Jackson & Columbus Railroad Company and running from the city of Natchez, in the county of Adams, to the city of Jackson, in the county of Hinds, of the State of Mississippi, together with all rights, powers, privileges, and immunities possessed by said Natchez, Jackson & Columbus Railroad Company to said property so sold as aforesaid, and in which rights, powers, privileges, and immunities, complainants charge, was embraced the right to have the president or cashier of the Louisville, New Orleans & Texas Railway Company or its successors or assigns make the affidavit as required by section 21 of the act incorporating the Mobile & North Western R. R. Co., showing the payment of the taxes then due or thereafter to become due on the property so sold, as aforesaid, by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company and the payment of the debts of said Natchez, Jackson & Columbus Railroad Company incurred by said Natchez, Jackson & Columbus Railroad Company and used by it in the construction of the railroad constructed by it from Natchez to Jackson, Miss., and the right to have said taxes applied to the payment of said debts incurred in the construction of the railroad aforesaid.

The portion of this transcript within the parenthesis contains the amendment to bill filed by complainants Feb'y 4th, 1893.

Attest: ALLISON H. FOSTER, *Clerk*.

(Complainants would further show unto your honorable
155 court and state that after the purchase of the property from the N., J. & C. R. R. Co. by the L., N. O. & T. R'y Co., as hereinbefore set forth, and as shown by deed from said Natchez, Jackson & Columbus Railroad Company to said Louisville, New Orleans & Texas Railway Company, dated March 28th, 1890, that the line of railroad purchased from said N., J. & C. R. R. Co. by said L., N. O. & T. R'y Co., and running from the city of Natchez, in the county of Adams, to the city of Jackson, in the county of Hinds, of the

State of Mississippi, was operated and maintained as a separate division, and that the accounts of the receipts, expenditures, and disbursements of said division of railroad running from said city of Natchez to the said city of Jackson, as aforesaid, were so kept by the officers of said L., N. O. & T. R'y Co. as to enable them at all times to ascertain and furnish a full, complete, and accurate statement of the receipts received from the operation and maintenance of said division of railroad, and the disbursements and expenditures made by said company in the operation and maintenance of said division of said railroad, and of the gross and net earnings of said line of railroad constituting said division and running from said city of Natchez to said city of Jackson, and that at the time of purchasing said line of railroad running from city of Natchez to the city of Jackson, as aforesaid, from said Natchez, Jackson & Columbus Railroad Company and at the time of making and filing the affidavits herewith filed as exhibits to this bill of complaint, and showing the application of taxes to which said company was subject to the payment of the debts and liabilities incurred by said Natchez, Jackson & Columbus Railroad Company in the construction of said railroad running from said city of Natchez to said city of Jackson, as aforesaid, there was a contract existing between the State of Mississippi and said N., J. & C. R. R. Co. and said Louisville,

New Orleans & Texas R'y Co. authorizing each of said
156 companies and under said contract each of the complainants had a right to apply to the payment of the debts and liabilities which said companies had incurred in the construction of railroads in the State of Mississippi all taxes to which said companies or either of them were subject, and that the taxes sought to be collected by the defendant on the line of railroad hereinbefore mentioned and sold as aforesaid, and running from the city of Natchez to the city of Jackson, and sold to the L., N. O. & T. R'y Co. by the N., J. & C. R. R. Co., had, prior to the attempt of defendant to collect said taxes, been applied by complainants, as they were authorized by law to do, — the debts incurred by the N., J. & C. R. R. Co. in the construction of said line of railroad running from the city of Natchez to the city of Jackson, and sold by said Natchez, Jackson & Columbus R. R. Co. to said Louisville, New Orleans & Texas R'y Co.)

Complainants state that said sale and conveyance to said Louisville, New Orleans & Texas R'y Co. by said Natchez, Jackson & Columbus Railroad Company was made to the said Louisville, New Orleans & Texas Railway Company, subject to an indebtedness of the said Natchez, Jackson & Columbus Railroad Company, as evidenced by the bonds of said Natchez, Jackson & Columbus Railroad Company of one million two hundred and fifty thousand dollars, and that said indebtedness is still outstanding and unpaid, and that said indebtedness of one million two hundred & fifty thousand dollars ($1,250,000.00), as aforesaid, was incurred by the said Natchez, Jackson & Columbus Railroad Company in the construction of the line of railroad by it from Natchez to Jackson, Mississippi, and the amount of same, to wit, one million two hundred & fifty thousand dollars, was used by the said Natchez, Jackson & Co-

umbus Railroad Company in the construction of said line of railroad from Natchez to Jackson, Miss., and that by section 25 of
157 an act of the legislature of the State of Mississippi entitled "An act to incorporate the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company," approved March 9th, 1882, the said Louisville, New Orleans & Texas Railway Company was authorized to purchase the property, rights, powers, privileges, and immunities from the Natchez, Jackson & Columbus Railroad Company, as hereinbefore set forth.

Complainants would further show and state that under the charter granted to it the Natchez, Jackson & Columbus Railroad Company constructed in Adams county, Mississippi, 14.128 miles of railroad, and that said fourteen and one hundred and twenty-eight thousandth miles of said railroad was a part of that property included in the sale and conveyance by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, as hereinbefore set forth.

(Complainants state and expressly charge that in the transfer and sale, made as aforesaid, by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company the franchises possessed by the said Natchez, Jackson & Columbus Railroad Company of being a corporation was not sold and did not pass to the Louisville, New Orleans & Texas Railway Company by the sale hereinbefore mentioned, and that the corporate existence of said Natchez, Jackson & Columbus Railroad Company is still in existence, intact and — full force, and that the stockholders of said Natchez, Jackson & Columbus Railroad Company since said sale as aforesaid to the Louisville, New Orleans & Texas Railway Company having held meetings and elected officers as provided by charter of said company, and that said company has now a full complement of officers as required by the charter thereof;) that the action of the legislature in extending the provision of said 21st section of the act to incorporate the Mobile & North Western Railroad Company to the several railroad companies named in said act of 1870 and hereinbefore set forth was an inducement held out by the State of Mississippi to
the incorporators named in the charters of said companies and
158 their associates to invest their money in the State of Mississippi, and under said charters to construct railroads therein; that the inducement so held out by said State to the Natchez, Jackson & Columbus Railroad Company was accepted by said company and acted on in good faith, and under its original charter and the several amendments thereto the Natchez, Jackson & Columbus Railroad Company constructed a railroad in the State of Mississippi from the city of Natchez to the city of Jackson, in said State, 98¾ miles in length, and that thereby the charter originally incorporating the Natchez, Jackson & Columbus Railroad Company and the several amendments thereto and the provisions, privileges, and immunities contained in said 21st section of the act incorporating the Mobile & North Western Railroad Company and made a part of the charter of the Natchez, Jackson & Columbus Railroad Company, as aforesaid, became a contract between the State of Mississippi and the said

Natchez, Jackson & Columbus Railroad Company, which was irrepealable and inviolable.

Complainants further state that on the faith of said contract and the provisions of the charter incorporating the Natchez, Jackson & Columbus Railroad Company, and the several amendments thereto, and the privileges granted *and* by and the provisions contained in said section 21 of the act incorporating the Mobile & North Western Railroad Company, the Natchez, Jackson & Columbus Railroad Company invested its capital in the construction of the line of said railroad from said city of Natchez to the city of Jackson, as aforesaid, and has since the construction of said railroad employed its capital in the operation and maintenance thereof, replying on said contract and reposing in the belief that the taxes to which it was subject would be appropriated by the State of Mississippi to the payment of its debts and liabilities incurred in the construction of said railroad, and as provided for by said section 21 of the act of incorporation of the Mobile & North Western Railroad Company, and that said contract and agreement upon the part of the State of Missis-
159 sippi went far beyond the mere privilege of an exemption from taxation.

The State having solemnly agreed in said contract and by the acts of the legislature aforesaid that if said company would construct a railroad, as provided for in its charter and the amendments thereto, and should incur debts and liabilities in so doing, that unless the earnings of said company should enable it to declare and pay to the stockholders thereof a dividend of 8 % upon its capital stock over and above its liabilities, that the taxes to which company should be subject for 30 years from the date of its incorporation, to wit, 1870, should be appropriated by said State of Mississippi to the payment of the debts and liabilities incurred by said company in the construction of said railroad.

Complainants would further show and state — by the sale and conveyance of the railroad from Natchez to Jackson, Miss., by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, together with the privileges and immunities thereunto belonging, the Louisville, New Orleans & Texas Railway Company became entitled to have the taxes on the property so sold and conveyed to it as aforesaid by the Natchez, Jackson & Columbus Railroad Company applied to the payment of the debts incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of said railroad so sold as aforesaid.

Complainants would further show that on the 17th day of Feb'y, 1882, by an act of the legislature duly enacted and approved as required by the laws of the State of Mississippi, the Yazoo & Mississippi Valley Railroad Company was incorporated, and that it is now — existing corporation under the laws of said State, and having its domicile therein ; that on the 24th day of October, 1892, the Louisville, New Orleans & Texas Railway Company was merged into and consolidated with the Yazoo & Mississippi Valley Railroad Company, and that by said consolidation and merger the capital stock,
160 franchises, grants, privileges, immunities, properties, rights of way, and all property, real, personal, or mixed, theretofore

belonging to said Louisville, New Orleans & Texas Railway Company, *was* merged into and became the property of the Yazoo & Mississippi Valley Railroad Company, all of which will fully appear by the certified copy of said act of consolidation filed herewith and marked Exhibit "C" and prayed to be taken and considered as a part of this bill; that the said merger and consolidation between the said Louisville, New Orleans & Texas Railway Company and the Yazoo & Mississippi Valley Railroad Company was authorized by the charters of each of said companies and was duly and regularly and legally made and entered into by said companies.

Complainants charge that by reason of the merger and consolidation of the Louisville, New Orleans & Texas Railway Company into and with the Yazoo & Mississippi Valley Railroad Company -- thereby became entitled to and was immediately upon said merger and consolidation possessed of all the rights, powers, privileges, and immunities theretofore belonging to the said Natchez, Jackson & Columbus Railroad Company and the said Louisville, New Orleans & Texas Railway Company, and in which said rights, powers, privileges, immunities, complainants charge, was embraced the right to have the president or cashier of the Yazoo & Mississippi Valley Railroad Company or its successors or assigns make the affidavit required by section 21 of the act incorporating the Mobile & North Western Railroad Company, showing the payment and application of the taxes then due or thereafter to become due on the property sold, as aforesaid, by the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, to the payment of the debts of the said Natchez, Jackson & Columbus Railroad Company incurred by said Natchez, Jackson & Columbus Railroad Company and used by it in the construction of the
161 railroad from Natchez to Jackson, Miss., and to have said taxes applied to the payment of the debts and liabilities incurred by said Natchez, Jackson & Columbus Railroad Company in the construction of said railroad from Natchez to Jackson, Mississippi.

(Complainants would further show and state that during each of the year 1891 and 1892 the Natchez, Jackson & Columbus Railroad Company and the Louisville, New Orleans & Texas Railway Company actually and in good faith paid and applied the amount of taxes to which said Natchez, Jackson & Columbus Railroad Company was subject and to which the said Louisville, New Orleans & Texas Railway Company was subject on the property purchased by it from the Natchez, Jackson & Columbus Railroad Company for each of the said years 1891 and 1892 in the payment of the debts and liabilities incurred by said Natchez, Jackson & Columbus Railroad Company in the construction of the railroad from the city of Natchez to the city of Jackson, Miss., and in the said county of Adams, to be used and which was used in constructing said road or paying debts incurred in constructing same, and that the profits of neither the Natchez, Jackson & Columbus Railroad Company now the profits of the Louisville, New Orleans & Texas Railway Company nor the profits of the Yazoo & Mississippi Valley Railroad Company have

been sufficient to enable said companies or either of them to declare and pay to the stockholders thereof an annual dividend of 8 per cent. or any per cent. upon the capital stock of said companies or either of them over or above the payment of the debts and liabilities of said companies and each of them, and that complainants have caused to be made by the proper officer of each of their said companies affidavits setting forth said facts, and in strict compliance with the requirements of section 21 of the act incorporating the Mobile & North Western Railroad Company, hereinbefore set forth, and have
162 presented said affidavits to the defendant in this suit, who is the sheriff & tax collector of Adams county, Mississippi, and have demanded of him, as such sheriff & tax collector, a receipt in full for all taxes, State and county and municipal, to which — companies or either of them were subject for the year 1891 or are subject for the year 1892, and on property situated in said county of Adams, Mississippi, as will appear by Exhibits E & D hereto, and that notwithstanding the payment and application of the amount of taxes as aforesaid to the debts and liabilities of the Natchez, Jackson & Columbus Railroad Company, as hereinbefore set forth, and the demand for receipt in full for all taxes to which the companies heretofore mentioned were or are subject in the said county of Adams for the years 1891 & 1892, the said defendant, not regarding the rights of complainants, refused to comply with said demand and to give said receipts.)

Complainant- charge that the said defendant, as sheriff & tax collector of the said county of Adams, was in law required to accept said affidavits and give a receipt in full for the taxes hereinbefore mentioned; that the payment and application of said taxes, the making of said affidavits, the presentation thereof to defendant, and refusal of said defendant to deliver said tax receipts, as required by said section 21 of the act incorporating the Mobile & North Western Railroad Company, will all fully appear by an examination of said affidavits made and represented as aforesaid, together with the endorsement of the defendant thereon filed herewith as Exhibits D & E, and which complainants pray may be taken and considered as a part of this bill.

163 Complainants would further show that the amount of taxes claimed to be due on the property of complainants in Adams county, Mississippi, for the year 1891 is $880.00, of which $480.00 is for taxes of the year 1891 claimed to be due on the depot grounds at Natchez, Mississippi, and on the locomotive engine belonging to complainants, and that $2,400.00 of said — is for taxes claimed to be due for State and county taxes of 1891 upon the following assessment, namely: "L., N. O. & T. R. R. Co., Natchez division, and amount of all other personal property not otherwise enumerated, $150,000.00," as shown by certificate of defendant hereto attached, marked Exhibit "F," and prayed to be taken and considered part of this bill; that the amount of taxes claimed to be due on the property of complainants in the said county of Adams for the year 1892 is $2,868.48 and on the following assessment, namely:

Assessment-roll of the Louisville, New Orleans & Texas, N., J. & C. Div., Railway Company.

[SEAL.]

For Adams county, Mississippi, for the year 1892.

Description of property.	Valuation by commission after objections heard.
13.300 miles of track, franchises, & rolling stock	133,000
1.828 miles of side track	4,570
2 depot-; value includes land and lot	2,600
1 stock pen; value included in depot	
2 section-houses; value includes land & lots	250
Total	140,420
State tax	$702.10

164 A true copy from the original roll.

JAS. W. LAMBERT,
Tax Collector.

County tax:

On valuation inside city, as per page attached—valuation, $255.62, 10 miles	$255.62
On valuation outside city, $114,858, 11 miles	1,263.43
Total	$1,519.05
Total State and county tax	$2,221.15

JAS. W. LAMBERT,
Tax Collector.

"Copy."

Assessment-roll of the Louisville, New Orleans & Texas, N., J. & C. Div., Railway Company.

[SEAL.]

For Natchez, Adams county, Mississippi, for the year 1892.

Description of property.	Valuation by commissioners after objections heard.
1.868 miles main track, franchises, and rolling stock	18,680
1.713 miles side track	4,282
1 depot; value includes land and lot	2,600
Total	25,562

A true copy from the original roll.

JAS. W. LAMBERT,
Tax Collector.

City tax rate (municipality), 17½ miles; therefore city taxes amount to $447.33.

As shown by certificate of defendant filed herewith, marked Exhibit "G," and which complainants pray may be taken and considered as part of this bill.

Complainants further show and state that neither the Louisville, New Orleans & Texas Railway Company, nor neither of them, gave in to the tax assessor of the said county of Adams any real or personal property for assessment in 1891, and that the assessment of $150,000.00 as personal property subject to taxation is void for uncertainty and is not warranted by law; that on all the road
165 from Natchez to Jackson there was not in the year 1891 personal property to the amount of one-half of said assessment, and that said assessment of $150,000.00 for personal property in the said county of Adams, Mississippi, is unjust and illegal.

Complainants would further show that, having refused to receive the affidavits of complainants showing the payment and application of the taxes of 1891 and 1892 to the debts and liabilities of the Natchez, Jackson & Columbus Railroad Company incurred and used in the construction of the railroad from Natchez to Jackson, Mississippi, and to give a receipt in full for said taxes, and claiming that the affidavits tendered to him, as aforesaid, are not sufficient in law to warrant him in giving receipts for said taxes, the said defendant, as sheriff & tax collector of Adams county, Mississippi, will, unless restrained from so doing by your honorable court, proceed to seize, advertise, and sell the property of complainants situated in the said county of Adams for the payment of taxes claimed, as aforesaid, to be due thereon for the years 1891 and 1892, and that, too, regardless of the rights of the complainants as hereinbefore set forth.

The premises considered, complainants pray that Jas. W. Lambert, sheriff & tax collector of Adams county, Mississippi, may be made a party defendant to this bill and required to answer all and singular the allegations thereof, and that he be inhibited and enjoined by an order from this honorable court from proceeding to collect the taxes for 1891 and 1892, claimed by him to be due, as aforesaid, on the property in Adams county of the Natchez, Jackson & Columbus Railroad Company or the Yazoo & Mississippi Valley Railroad Company, acquired by said last-named company from the Louisville, New Orleans & Texas Railway Company, acquired from the Natchez, Jackson & Columbus Railroad Company, and that on final hearing that he may be perpetually enjoined from collecting said taxes or interferring with the property of complainants in the said county of Adams, and to deliver to complainants receipts for the said taxes of 1891 and 1892 *and* hereinbefore set forth. May it please
166 your honor to grant to complainants the State's most gracious writ of subpœna, directed, &c., commanding, &c.; and, as in duty bound, complainants will ever pray, &c.

WILL T. MARTIN &
YERGER & PERCY,
Solicitors for Complainants.

STATE OF MISSISSIPPI,
Washington County.

Personally appeared before me, W. R. Trigg, chancellor of 7th chancery district of Mississippi, Wm. G. Yerger, one of the solicitors for complainants in the foregoing bill of complaint, who states on oath that the matters and things set forth in the foregoing bill as stated therein on the knowledge of complainants or affiant are true, and that those stated therein on information of others he verily believes to be true.

WM. G. YERGER.

Sworn to and subscribed before me this 8th day of November, 1892.

W. R. TRIGG,
Chancellor, &c.

"Fiat" of Chancellor W. R. Trigg endorsed on the original bill and being in the words and figures following, to wit:

The State of Mississippi to the clerk of the chancery court of Adams county:

Upon the filing of this bill of complaint and the complainants entering into bond, conditioned as required by statute, in the penalty of eleven thousand and ninety-six & $\frac{96}{100}$ dollars, with Wm. G. Yerger, Lercy Percy, and the Merchants' and Planters' bank as sureties, which said bond is hereby approved, you will issue writs of subpœna & injunction as prayed for.

Given under my hand this 8th day of November, 1892.

W. R. TRIGG,
Chancellor of 7th Chancery Dist. of Mississippi.

167 EXHIBIT "A."

Articles of associations and consolidation, made and entered into this 12th day of August, 1884, by and between the Tennessee Southern Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Tennessee, of the first part; the Memphis & Vicksburg Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Mississippi, of the second part; the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Mississippi, of the third part; and the New Orleans & Mississippi Valley Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Louisiana, of the fourth part.

Whereas, it is believed that a consolidation of the parties hereto into one corporation will be mutually advantageous, and it has been agreed by and between said parties that they should be so consolidated with each other in the manner and upon the terms

and conditions hereinafter expressed; now therefore, this agreement witnesseth:

That under and by virtue of the statutes of the respective States of Tennessee, Mississippi and Louisiana, in such cases made and provided, and in consideration of the mutual undertakings, covenants, and agreements hereinafter contained, the said parties have mutually covenanted and agreed, and do hereby mutually covenant and agree, to and with each other as follows, that is to say:

Article 1. The said parties hereto do hereby consolidate with each other into one consolidated corporation, into which are merged and consolidated the several capital stocks, franchises, grants, immunities, privileges, properties, rights of way, and all property, real, personal, and mixed, of the several respective parties hereto.

Article 2. The corporate — of the said consolidated company shall be the Louisville, New Orleans & Texas Railway Company.

Article 3. The officers of said consolidated company shall consist of a president, vice-president, secretary, treasurer, and nine directors, who shall be elected by the stockholders of tye com-
168 panies entering into this consolidation at the time the same is effected, and such officers shall be elected annually thereafter upon such notice and terms as the board of directors may prescribe; but failure to hold any annual election shall in nowise impair or affect this corporation; in such event the officers elected at the last regular election shall hold office until their successors are elected and qualified, and a special election may be held for that purpose.

Article 4. The capital stock of said consolidated corporation shall be ten million dollars, to be divided into one hundred thousand shares of one hundred dollars each; but the said corporation may at any time increase or diminish the amount of its capital stock according to law.

Article 5. Each stockholder of any of the divisional companies parties hereto shall be entitled to the same number of shares of the capital stock of the consolidated corporation which he holds of the capital stock of such divisional company, and shall be entitled to receive from said consolidated company certificates therefor *under* the surrender of the certificates for stock in such divisional company held by him, and the remainder of the capital stock of such consolidated company shall be issued from time to time, and upon such terms and conditions as may be prescribed by the board of directors of said company.

Article 6. That the company formed by consolidation as aforesaid be and the same is hereby authorized and empowered in such manner and upon such conditions as permitted by law so to do, to issue its bonds and to secure the same by mortgage or deed in trust upon all its rights, ways, franchises, and property, real and personal, no matter where the same be situated, and whether the same be owned by said company at the time of its formation or thereafter acquired.

Article 7. The domicile of such corporation, under the laws of the State of Louisiana, shall be in the parish of Orleans, and the general domicile of the consolidated company shall be at Memphis, in the State of Tennessee.

169 In witness whereof, the parties hereunto have caused their corporate seal- to be affixed and attested by the secretaries of their respective companies, and their corporate names to be subscribed hereto by their respective presidents.

TENNESSEE SOUTHERN RAILROAD COMPANY,

[SEAL.] By R. T. WILSON, *President.*

Attest: HOLMES CUMMINS, *Secretary.*

MEMPHIS & VICKSBURG RAILROAD COMPANY,

[SEAL.] By R. T. WILSON, *President.*

Attest: CHANNING BURNZ, *Secretary.*

NEW ORLEANS, BATON ROUGE, VICKSBURG & MEMPHIS RAILROAD COMPANY,

[SEAL.] By R. T. WILSON, *President.*

Attest: CHARLES E. ARMSTRONG, *Secretary.*

NEW ORLEANS & MISSISSIPPI VALLEY RAILROAD COMPANY,

[SEAL.] By R. T. WILSON, *President.*

Attest: C. H. BOSHER, *Secretary.*

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this fourteenth day of August, in the year of our Lord one thousand and eighty-four, before me, Edward F. Corey, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the Memphis & Vicksburg Railroad Company, and Channing Burnz, secretary of the same company, to me respect*fully* personally known and known to me to be such officers of the said company, who, being by me severally sworn, did depose and say that he, Richard T. Wilson, resided in the city of New York, in the State of New York, and that he, Channing Burnz, resided in the city of New York, in the State of New York; that he, said Richard T. Wilson, was the president and he, said Channing Burnz, was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board
170 of directors of the said company, and that they, the said Richard T. Wilson and Channing Burnz, signed their names thereto by the like order as president and secretary of said company respectively.

In witness whereof I have -unto set my hand and affixed my official seal this 14th day of August, one thousand eight hundred and eighty-four.

[Commissioner's Seal.]

EDWIN F. COREY,
Commissioner for Miss. in N. Y.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this fourteenth day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, Edwin F. Corey, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the New Orleans & Mississippi Valley Railroad Company, and Charles H. Bosher, secretary of the same company, to me respectively personally known and known to me to be such officers of the said company, who, being by me severally duly sworn, did depose and say that he, said Richard T. Wilson, resided in the city of New York, in the State of New York, and that he, said Charles H. Bosher, resided in the city of Brooklyn, in the State of New York; that he, said Richard T. Wilson, was the president and he, said Charles H. Bosher, was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of the said company, and that they, Richard T. Wilson and Charles H. Bosher, signed their names thereto by the like order as president and secretary of said company respectively.

In witness whereof I have -unto set my hand and affixed my official seal this 14th day of August, one thousand eight hundred and eighty-four.

[Commissioner's Seal.]

EDWIN F. COREY,
171 *Commissioner for Mississippi in New York.*

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 14th day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, Edwin F. Corey, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the Tennessee Southern Railroad Company, to me personally known and known to me to be such officer of the said company, who, being by me duly sworn, did depose and say that he resided in the city of New York, in the

State of New York; that he was the president of the said company, and that he signed the name of said company and his name as president thereof to the foregoing instrument by order of its board of directors.

In witness whereof I have unto set my hand and affixed my official seal this 14th day of August, one thousand eight hundred and eighty-four.

[Commissioner's Seal.]

EDWIN F. COREY,
Commissioner for Miss. in N. Y.

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this 14th day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, Edwin F. Corey, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in the said city and county of New York, personally appeared Richard T. Wilson, president of the New Orleans, Baton Rouge,
172 Vicksburg & Memphis Railroad Company, to me personally known and known to me to be such officer of the said company, who, being by me duly sworn, did depose and say that he resided in the city of New York, in the State of New York; that he was the president of the said company, and that he signed the name of the said company and his name as president thereof to the foregoing instrument by orders of its board of directors.

In witness whereof I have unto set my hand and affixed my official seal this 14th day of Aug., one thousand eight hundred and eighty-four.

[Commissioner's Seal.]

EDWIN F. COREY.
Commissioner for Miss. in New York.

STATE OF TENNESSEE, }
County of Shelby, } *ss:*

Be it remembered that on this 25th day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, Hunsdon Carey, a duly appointed notary public in and for the said county of Shelby, State of Tennessee, and commissioner for the State of Mississippi in and for the State of Tennessee, personally appeared Holmes Cummins, secretary of the Tennessee Southern Railroad Company, to me personally known and known to me to be such officer of the said company, who, being by me duly sworn, did depose and say that he resided in the city of Memphis, in the State of Tennessee; that he was the secretary of the said company; that he knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of the said com-

pany, and that he signed his name thereto by the like order as secretary of said company.

In witness whereof I have -unto set my hand and affixed my official seal this 25th day of Aug., one thousand eight hundred and eighty-four.

[NOTARIAL SEAL.] HUNSDON CAREY,
[COMMISSIONER'S SEAL.] *Notary Public, Memphis, Tenn., and Commissioner for Mississippi in Tennessee.*

173 STATE OF MISSISSIPPI, *Warren County,* } ss:

Be it remembered that on the 26th day of August, in the year of our Lord one thousand eight hundred and eighty-four, before me, L. M. Loewenberg, a duly appointed notary public in and for the said county of Warren, State of Mississippi, residing in Vicksburg, personally appeared Charles E. Armstrong, secretary of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, to me personally known and known to me to be such officer of the said company, who, being by me duly sworn, did depose and say that he resided in the city of Vicksburg, in the State of Mississippi; that he was the secretary of the said company; that he knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of the said company, and that he signed his name thereto by the like order as secretary of said company.

In witness whereof I have -unto set my hand and affixed my official seal this 26th day of August, one thousand eight hundred and eighty-four.

L. M. LOEWENBERG,
[NOTARIAL SEAL.] *Notary Public.*

I, Charles H. Bosher, secretary of the New Orleans & Mississippi Valley Railroad Company, do hereby certify that at a special meeting of the stockholders of said railroad company called for that purpose after sixty days' public notice in two newspapers, published at the domicile of said railroad company, in the State of Louisiana, to wit, at the city of New Orleans, in said State (and in the call for which special notice was given to the stockholders of the proposed consideration of an action upon the question of consolidation of said company with the other companies hereinafter mentioned), the following preamble and resolutions were passed by the vote of upwards of three-fourths of all the stockholders present and represented thereat and by the votes of the holders of upwards of three-fourths of
174 the entire capital stock of said company, to wit:

Whereas, due notice has been given of this meeting, as required by act No. 38 of the acts of the legislature of the State of Louisiana at its regular session for the year 1882, viz. sixty days' continuous publication in the New Orleans Times Democrat and the New Orleans States,

Be it resolved by the stockholders of the New Orleans & Mississippi Valley Railroad Company, That this corporation be and the same is hereby consolidated with the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Mississippi, with the Memphis & Vicksburg Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Mississippi, and with the Tennessee Southern Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Tennessee, under the following terms and conditions:

Article 1. The said companies do consolidate with each other into one consolidated corporation, into which are merged and consolidated the several capital stocks, franchises, grants, immunities, privileges, properties, rights of way and all property, real, personal and mixed of the several and respective companies.

Article 2. The corporate name of the said consolidated company shall be the Louisville, New Orleans & Texas Railway Company.

Article 3. The officers of said consolidated company shall consist of a president, vice-president, secretary, treasurer and nine directors, who shall be elected by the stockholders of the companies entering into this consolidation at the time the same is effected; such officers shall be elected annually thereafter upon such notice and terms as the board of directors may prescribe; but failure to hold an annual election, shall in nowise impair or effect the said corporation; in such event the officers elected at the last regular election shall hold office until their successors are elected and qualified, and a special election may be held for that purpose.

Article 4. The capital stock of said consolidated corporation shall be ten million dollars, to be divided into one hundred
175 thousand shares of one hundred dollars each; but the said corporation may at any time increase or diminish the amount of its capital stock according to law.

Article 5. Each stockholder of any of the divisional companies so consolidating shall be entitled to the same number of shares of the capital stock of the consolidated corporation which he holds of the capital stock of such divisional company, and shall be entitled to receive from said consolidated company certificates therefor, upon the surrender of the certificates for stock in such divisional company held by him, and the remainder of the capital stock of such consolidated company shall be issued from time to time and upon such terms and conditions as may be prescribed by the board of directors of said company.

Article 6. That the company formed by the consolidation as aforesaid be and the same is hereby authorized and empowered in such manner and upon such conditions as permitted by law so to do to issue its bonds, and to secure the same by mortgage or deed in trust, upon all its rights, ways, franchises and property, real and personal, no matter where the same be situated, and whether the same be owned by said company at the time of its formation or thereafter acquired.

Article 7. The domicile of such new corporation under the laws of the State of Louisiana, shall be in the parish of Orleans, and the general domicile of the consolidated company shall be at Memphis, in the State of Tennessee.

Be it further resolved by the stockholders of the New Orleans & Mississippi Valley Railroad Company, That the president and secretary of this company are hereby authorized and empowered to do all acts, and to sign all contracts, deeds and agreements necessary and proper to carry this resolution into full and final effect.

"That stockholders holding 12,796 shares of the capital stock of said company out of an outstanding capital stock consisting of 12,800 shares thereof were present or represented at such meeting; that stockholders holding four shares of the stock of the company were absent and unrepresented, and that the foregoing preamble and resolutions were adopted by the unanimous vote upon such 12,796 shares, the holders of which were so present and represented,
176 and without opposition on the part of any stockholder thereto."

In witness whereof I have unto set my hand and affixed the seal of the said company the twelfth day of August, 1884.

[Seal of the N. O. & M. V. R. R. Co.]

C. H. BOSHER, *Secretary.*

We, the undersigned stockholders of the New Orleans & Mississippi Valley Railroad Company to the amounts set opposite our respective signatures hereto, do hereby authorize, ratify, and approve the consolidation between the New Orleans & Mississippi Valley Railroad Company, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, the Memphis & Vicksburg Railroad Company, and the Tennessee Southern Railroad Company upon the terms and conditions set forth in the foregoing articles of consolidation:

Names.	Shares.
Financial Improvement Co.	10,666
(F. I. Co. seal.) By James B. Hawes, pres. Attest: F. H. Davis, sec'y.	
C. H. Bosher	1,010
W. M. Johnston	1,088
Albert Crolius	10
R. T. Wilson	10

STATE OF NEW YORK, *City and County of New York,* } *ss:*

Be it remembered that on this 14th day of August, 1884, before me, Edwin F. Corey, a duly appointed notary public in and for the city and county of New York, in the State of New York, and commissioner for the State of Mississippi, residing in said county of New York, personally appeared Charles H. Bosher, to me personally known, who, being by me duly sworn, did depose and say that he was the secretary of the New Orleans and Mississippi Valley Rail-

road Company above named; that the foregoing certificate by him subscribed was true, and that the foregoing instrument of authorization and approval of articles of consolidation was signed by the holders of stock of said New Orleans & Mississippi Valley Railroad Company.

177 In witness whereof I have hereto set my hand and affixed my official seal this 14th day of August, one thousand eight hundred and eighty-four.

EDWIN F. COREY,

[NOTARIAL SEAL.] [COMMISSIONER'S SEAL.] *Notary Public for the State of New York and Commissioner for Mississippi in New York.*

I, Channing Burnz, secretary of the Memphis and Vicksburg Railroad Company, do hereby certify that at a meeting of the stockholders of the said railroad company duly called and held (and in the call for which special notice was given to the stockholders of the proposed consideration and action upon the question of consolidation of said company with the companies mentioned in such agreement) the agreement of consolidation hereunto annexed and the terms and conditions thereof were approved by a vote of the holders of upwards — three-fourths of the entire capital stock of said company; that stockholders holding 47,672 shares of the capital stock of said company out of an outstanding capital stock not exceeding 49,196½ shares were present or represented at such meeting, and that such agreement of consolidation and the terms and conditions thereof, as in said agreement expressed, were approved by unanimous vote upon such 47,672 shares, the holders of which were so present and represented, and without opposition on the part of any stockholder thereto.

In witness whereof I have hereunto set my hand and the seal of the said company the 12th day of August, 1884.

[Seal of M. & V. R. R. Co.]

CHANNING BURNZ, *Secretary.*

We, the undersigned stockholders of the Memphis & Vicksburg Railroad Company to the amounts set opposite our respective signatures hereto, do hereby authorize, ratify, and approve the consolidation of the Memphis & Vicksburg Railroad Company, the Tennessee Southern Railroad Company, the New Orleans & Mississippi Valley Railroad Company, and the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company upon the terms

178 and conditions expressed in the annexed agreement of consolidation:

Names.	Shares.
W. M. Johnston	23,705
C. H. Bosher	23,668
Mississippi Valley Construction Co	100

By Albert Crolius, V. P.

Attest: F. H. Davis, sec'y.

Financial Improvement Co.	100
(F. I. Co. seal.) By Jas. B. Hawes, pres.	
Attest: F. H. Davis, sec'y.	
R. T. Wilson	20
C. M. Calhoun	5
J. H. Ingram	5
Albert Crolius	5
E. L. Golborne	5
Channing Burnz	5
J. F. Van Name	5

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that on this 14th day of August, 1884, before me, a duly appointed notary public in and for the city and county of New York, in the State of New York, and commissioner for the State of Mississippi, residing in said city and county of New York, personally appeared Channing Burnz, to me personally known, who, being by me duly sworn, did depose and say that he was the secretary of the Memphis & Vicksburg Railroad Company above named; that the foregoing certificate by him subscribed was true, and that — foregoing instrument of authorization and approval was signed by holders of stock of said Memphis & Vicksburg Railroad Company to the amount of 47,623 shares thereof out of the entire capital stock, not exceeding in the aggregate 49,196½ shares.

In witness whereof I have unto set my hand and affixed my official seal this 14th day of August, 1884.

EDWIN F. COREY,

[NOTARIAL SEAL.] [COMMISSIONER'S SEAL.] *Notary Public for the State of New York and Commissioner for Mississippi in New York.*

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I, Charles E. Armstrong, secretary of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, do hereby certify that at a meeting of the stockholders of the said railroad company duly called and held (and in the call for which a special notice was given to the stockholders of the proposed consideration of and action upon the question of consolidation of said company with the companies mentioned in such agreement) the agreement of consolidation hereunto annexed and the terms and conditions thereof were approved by a vote of the stockholders of upwards of three-fourths of the entire capital stock of said company; that stockholders holding 52,470 shares of the capital stock of said company out of an outstanding capital stock consisting of 52,500 shares were present or represented at such meeting; that stockholders holding 30 shares of the stock of said company were absent and unrepresented, and that such agreement of consolidation and the terms and conditions thereof as in said agreement expressed were approved by unanimous vote upon such 52,470 shares, the holders — which were so present and represented, and without opposition on the part of any stockholder thereto.

In witness whereof I have hereunto set my hand and the seal of the said company the twelfth day of August, 1884.

[N. O., B. R., V. & — R. R. Co. Seal.]

CHARLES E. ARMSTRONG, *Secretary.*

We, the undersigned stockholders of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company to the amounts set opposite our respective signatures hereto, do hereby authorize, ratify, and approve the consolidation of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, the Memphis & Vicksburg Railroad Company, the Tennessee Southern Railroad Company, and the New Orleans & Mississippi Valley Railroad Company upon the terms and conditions expressed in the annexed agreement of consolidation:

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Names.	Shares.
R. T. Wilson & Co.	52,420
J. H. Ingram	10
Thos. J. Sherman	10
J. M. Edwards	10
W. S. Matthews	10
Jno. A. Grant	10
R. H. Elliot	10

STATE OF MISSISSIPPI, *County of Warren,* } *ss:*

Be it remembered that this 26th day of August, 1884, before me, a duly appointed notary public in and for the county of Warren, in the State of Mississippi, residing in Vicksburg, in the State of Mississippi, personally appeared Charles E. Armstrong, to me personally known, who, being by me duly sworn, did depose and say that he was the secretary of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, above named; that the foregoing certificate by him subscribed was true, and that the foregoing instrument of authorization and approval was signed by holders of stock of said New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company to the amount of 52,470 shares thereof out of the entire capital stock, amounting in the aggregate to 52,500 shares.

In witness whereof I have unto set my hand and affixed my official seal this — day of August, 1884.

L. M. LOWENBERG,

[NOTARIAL SEAL.] *Notary Public.*

I, Holmes Cummins, secretary of the Tennessee Southern Railroad Company, do hereby certify that at a regular annual meeting of the stockholders of the said railroad company, duly called and held (and in the call for which special notice was given to the stockholders of the proposed consideration of an action upon the question of consol-

idation of said company with the companies mentioned in said agreement), the agreement of consolidation hereunto annexed and
181 the terms and conditions thereof were approved by a vote of the the holders of upwards of three-fourths of the entire capital stock of said company; that stockholders holding 1,934 shares of the capital stock of said company out of an outstanding capital stock consisting of 1,980 shares were present or represented at such meeting; that stockholders holding 40 shares of the capital stock of said company were absent and unrepresented, and that such agreement of consolidation and the terms and conditions thereof as in said agreement expressed were approved by unanimous vote upon such 1,934 shares, the holders of which were so present and represented, and without opposition on the part of any stockholder thereto.

In witness whereof I have hereunto set my hand and the seal of the said company the twelfth day of August, 1884.

[Tenn. Southern R. R. Seal.]

HOLMES CUMMINS, *Secretary.*

We, the undersigned, stockholders of the Tennessee Southern Railroad Company to the amounts set opposite our respective signatures hereto, do hereby authorize, ratify, and approve the consolidation of the Tennessee Southern Railroad Company, the New Orleans — Mississippi Valley Railroad Company, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, and the Memphis & Vicksburg Railroad Company upon the terms and conditions expressed in the annexed agreement of consolidation:

Names.	Shares.
Financial Improvement Co.	1,300
(F. I. Co. seal.) By Jas. B. Hawes, pres. Attest: F. H. Davis, sec'y.	
W. M. Johnston	520
R. T. Wilson	10
C. H. Bosher	10
Albett Crolius	10
J. F. Van Name	10
Channing Burnz	10
J. E. Gates	10
E. H. Pardee	10
Jas. M. Edwards	10
W. I. Mathews	10
Holmes Cummins	10

182 STATE OF TENNESSEE, } ss:
County of Shelby, }

Be it remembered that on this 25th day of August, 1884, before me, a duly appointed notary public in and for the county of Shelby, in the State of Tennessee, and commissioner for the State of Mississippi, residing in Memphis, in said State of Tennessee, personally appeared Holmes Cummins, to me personally known, who, being by

me duly sworn, deposed and said that he was the secretary of the Tennessee Southern Railroad Company above named; that the foregoing certificate by him subscribed was true, and that the foregoing instrument of authorization and approval was signed by holders of stock of said Tennessee Southern Railroad Company to the amount of 1,934 shares thereof out of the entire capital stock, amounting in the aggregate to 1,980 shares.

In witness whereof I have hereunto set my hand and affixed my official seal this twenty-fifth day of August, 1884.

[NOTARIAL SEAL.] HUNSDON CARY,
Notary Public, Memphis, Tenn., and Commissioner
[COMMISSIONER'S SEAL.] *for Mississippi in Tennessee.*

I, Chas. H. Bosher, secretary of the Louisville, New Orleans & Texas Railway Company, do hereby certify under the provisions of the statutes of the State of Mississippi in that behalf that the foregoing is a correct and true copy of the agreement of consolidation between the several companies by the consolidation of which the said Louisville, New Orleans & Texas Railway Company was formed, and of the whole of said agreement of consolidation, and of the accompanying documents, and that the said agreement actually went into effect on the day of its execution, viz., the twelfth day of August, 1884.

In witness whereof I have hereunto set my hand and the corporate seal of the said consolidated corporation this 20th day of March, in the year 1891.

[SEAL.] C. H. BOSHER, *Secretary.*

183 STATE OF NEW YORK, } *ss:*
City and County of New York, }

I, William H. Clarkson, a commissioner of deeds for the State of Mississippi in and for the State of New York, residing in the city of New York, do hereby certify that on the 20th day of March, A. D. 1891, before me personally appeared C. H. Bosher, who signed the foregoing certificate in my presence, and, being duly sworn, he did depose and say that he is the secretary of the Louisville, New Orleans & Texas Railroad Company, and that the foregoing certificate by him subscribed is in all respects true.

In testimony whereof I have hereunto set my hand and affixed my official seal this 20th day of March, A. D. 1891.

[SEAL.] WILLIAM H. CLARKSON,
Commissioner for the State of Mississippi in
N. Y., 115 *Broadway, New York City.*

Endorsed: Filed in office of secretary of state April 6th, 1891. Geo. M. Govan, secretary of state.

STATE OF MISSISSIPPI, }
Office of Secretary of State. }

I, Geo. M. Govan, secretary of state of the State of Mississippi, do certify that the foregoing and annexed fifteen pages contain a full,

true, and correct copy of the articles of association and consolidation of the Tennessee Southern Railroad Company, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, the New Orleans & Mississippi Valley Railroad Company, under the name and style of the "Louisville, New Orleans & Texas Railway Company," together with the several acts and proceedings of the ratification and approval of said consolidation by the said several companies, as attested by their several respective officers and the several official certificates of the acknowledgement thereof, and the endorsement of the filing of the same, as all appear on file in this office.

Given under my hand and the great seal of the State of
184 Mississippi this 8th day of April, A. D. 1891.

GEO. M. GOVAN,
Secretary of State.

[SEAL.]

"*Agreement as to Exhibit B.*"

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY *et al.*
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector, &c. } No. —.

Whereas the bill in this cause refers to and recites the conveyance of the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company of all its property rights, privileges, and immunities, dated March 28th, A. D. 1890; and whereas also the said deed was referred to and used in argument of counsel on each side, but by accident was not formally filed as Exhibit B to the bill, therefore counsel for the parties agree that it may now be incorporated as part of the record and marked as Exhibit "B."

K. PALMER LANNEAU,
Sol. for Def't.
YERGER & PERCY,
By MARTIN,
WILL T. MARTIN,
Sol's for Compl'ts.

Dated March 27th, 1893.

EXHIBIT "B."

Natchez, Jackson & Columbus R. R. Co.
to
Louisville, New Orleans & Texas Railway Company.

This indenture made and entered this 28th day of March 1890 by and between the Natchez, Jackson & Columbus Railroad Company of the first part, and the Louisville, New Orleans & Texas Railway Company of the second part, witnesseth that: The party of the first part, in consideration of the sum of one hundred and eighty thousand dollars, lawful money of the United States, to it in hand paid by the party of the second part, the receipt whereof is hereby

acknowledged has granted, bargained, sold, assigned, transferred and conveyed and hereby grants, bargains, sells, assigns, transfers
185 and conveys, unto the party of the second part, its successors and assigns, forever, all the railroad and other property, of the party of the first part, lying, being and situated in the State of Mississippi, together with all franchises, rights powers, privileges and immunities, unto the said party of the first part, appertaining or belonging, to have and to hold to the said party of the second part, its successors and assigns forever, subject however, to the existing mortgage from the party of the first part, to the Farmers' Loan and Trust Company, trustee dated September 1, 1882, securing outstanding bonds of the party of the first part, to the amount at their par or face value, of not exceeding one million two hundred and fifty thousand dollars, and subject to the current interest thereon. And in consideration of the premises the party of the first part has undertaken, covenanted and agreed, and hereby undertakes, covenants and agrees, to and with the party of the second part, to provide for interest which matured on or prior to March 1, 1890, on bonds secured by the mortgage above referred to, and provide for the payment of all other unpaid indebtedness and obligations of the party of the first part, *securing* from and after May 1, 1889.

In witness whereof, the party of the first part has caused these presents to be executed on its behalf by its president and its corporate seal to be hereunto affixed, and attested by its secretary, the day and year first above mentioned.

NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY,
By T. J. NICHOLL, *President.*
[CORPORATE SEAL.] JOS. T. PENTON, *Sec'y.*

STATE OF MISSISSIPPI, }
Adams County. }

Personally appeared before me, J. Chas. Carson, a justice of the peace and *ex officio* notary public in and for the county and State aforesaid, the within-named T. J. Nicholl and Jos. T. Penton, who, being by me duly sworn, depose and say and acknowledge that they signed, sealed, and delivered the foregoing deed on the day and year therein named as the act and deed of the Natchez, Jackson & Columbus Railroad Company, the said T. J. Nicholl deposing and acknowledging that he signed and delivered said deed as the president of said company and by authority of a resolution of the board of directors of said company, and the said Jos. T. Penton
186 deposing and acknowledging that he signed said deed and affixed the corporate seal of said company to said deed by authority of a resolution of the board of directors of said company and as the secretary of said company; and the said T. J. Nicholl and Jos. T. Penton further depose, say, and acknowledge that they know the corporate — of said Natchez, Jackson & Columbus Railroad Company, and that the seal so affixed to said deed is the

seal of said Natchez, Jackson & Columbus Railroad Company and was so affixed by the order of the board of directors of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 26th day of March, A. D. 1890.

J. CHAS. CARSON,
[L. S.] *J. P. and ex Officio Notary Public.*

Filed for record in my office this 15th day of April, A. D. 1890, at 2.10 o'clock p. m.

ALLISON H. FOSTER, *Clerk.*

Recorded April 16th, 1890.

THE STATE OF MISSISSIPPI, }
Adams County, } *ss:*

I, Allison H. Foster, clerk of the chancery court of said county, do hereby certify that the foregoing two pages and what precedes this certificate on this page contains and exhibits a true and perfect copy of the record of the original deed from the Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company as the same now appears of record in my office in the deed records of said county, Book "3 E," pages 324, 325, and 326, of said county.

Witness my hand and the seal of said court, at the city of Natchez, this February 24th, A. D. 1892.

ALLISON H. FOSTER,
[SEAL.] *Clerk of the Chancery Court.*

187 EXHIBIT "C."

Articles of Consolidation.

These articles of consolidation, made this 24th day of October A. D. 1892, by and between the Louisville, New Orleans & Texas Railway Company, a corporation of the States of Tennessee, Mississippi and Louisiana, party of the first part, and the Yazoo & Mississippi Valley Railroad Company, a corporation of the State of Mississippi, party of the second part, witnesseth:

That under and by virtue of the charters of the respective — hereto and of the laws of the respective States of Tennessee, Mississippi and Louisiana in such case made and provided, the said parties of the first and second parts have mutually covenanted and agreed and do hereby mutually covenant and agree to and with each other, to unite, merge and consolidate their several capital stocks, corporate rights, franchises, immunities, and privileges and properties of every kind, real and personal and mixed, upon the following terms and conditions, that is to say:

Article 1. Such consolidation shall be effected by uniting or merging the stock, property and franchises of the party of the first part with and into the stock, property and franchises of the said Yazoo & Mississippi Valley Railroad Company, without disturbing the

corporate existence of the last-named company, or the formation of any new, distinct, corporation, unless such result shall be necessary to give legal effect to this agreement; but whatever may be the legal consequence of the consolidation herein provided for, this agreement is to stand and be effective.

Article 2. The corporate name of the said consolidated company shall be the Yazoo & Mississippi Valley Railroad Company.

Article 3. The capital stock of the said consolidated company shall be fifteen million dollars to be divided into one hundred and fifty thousand shares of one hundred dollars each; but the said corporation may at any time increase or diminish the amount of its capital stock according to law.

Article 4. Every holder of — either of the said companies now outstanding shall be entitled to cast one vote for each share of stock held by him at all stockholders' meetings of the con-
188 solidated company, which vote may be cast either in person or by proxy, and shall have all the rights of a stockholder of the consolidated company, as fully as if new shares of the consolidated company had been issued and exchanged therefor, and in case the consolidated company shall determine to issue new shares, such shares shall be exchangeable at par for the new outstanding shares of each of the constituent companies; and the remainder of the capital stock of the consolidated company shall be issued from time to time and upon such terms and conditions as may be prescribed by the board of directors of said company.

Article 5. All and singular the rights, powers, privileges, immunities and privileges and franchises, and all the railroads, real and personal estate, easements, fixtures, equipments, choses in action and property and assets of every kind, nature of description, belonging to either of the parties hereto, shall be vested in, and become the property of the said consolidated company, without any further act, deed, conveyance or assurance being required in the premises.

Article 6. The affairs of the consolidated company shall be managed by a board of directors, which shall consist of such a number of members, not less than five, as the company may determine from time to time, each of whom shall be a stockholder, and one of them a resident of the State of Mississippi, one of Tennessee and one of Louisiana. The members shall be divided into three equal classes as nearly as practicable. Successors to serve for the term of three years, shall be chosen for those who belong to the first class at the first annual meeting of the stockholders held after this consolidation shall have been effected; for those who belong to the second class, at the next annual meeting; and for those belonging to the third class at the next succeeding annual meeting of the stockholders. Each director successively chosen shall continue in office until his successor is elected. Vacancies in the board caused otherwise than by expiration of the term for which the retiring director was chosen, may be filled by a vote of a majority of the directors remaining, such appointee to continue in office until the next regular election of

directors by the stockholders. The first board of directors
189 shall be composed of the following members, divided into three classes, as follows:

First class. Stuyvesant Fish, Adolph Schreiber, W. C. Craig, Charles A. Peabody, Jr.

Second class. John W. Auchincloss, Walther Luttgen, Edward H. Harriman, J. T. Harrahan.

Third class. S. V. R. Cruger, R. P. Neeley, R. C. Shepherd, J. C. Welling.

Article 7. The board of directors of said consolidated company shall choose one of their number president, whose term of office shall be one year, or until his successor shall be chosen and qualified. They may also appoint such other officers and agents as they may deem necessary from time to time and prescribe their duties and compensation; and may provide, by the by-laws to be adopted, such rules and regulations relating to the affairs and business of said company as may be necessary or proper. The said board shall also have power to appoint an executive committee, of whom the president shall be one *ex officio*, who shall possess and exercise all the powers and duties of the board of directors when the board is not in session. Until otherwise ordered the corporate seal of the said consolidated company shall be that of the Yazoo & Mississippi Valley Railroad Company.

Article 8. The said consolidated company shall be and the same is hereby authorized and empowered in such manner and upon such conditions as are permitted by law to issue its bonds and to secure the same, as well as all bonds heretofore issued by either of the constituent companies, or that have been heretofore or may be hereafter issued by any other railroad company, by mortgage or deed of trust upon all or any of its railroads, rights, franchises and property, real or personal, wherever the same may be situated, and whether the same may be owned by said company at the time this consolidation is effected or may be thereafter acquired; and may also exercise any and every other corporate right or power now vested in or which might — been heretofore lawfully exercised by either of said constituent companies.

Article 9. Until otherwise ordered the domicile of the said corporation under the laws of the State of Louisiana, shall be
190 in the parish of Orleans; and, under the laws of the State of Mississippi in the city of Jackson, in Hinds county; and the general domicile of the corporation shall be at Memphis, in the State of Tennessee.

Article 10. The provisions of these articles shall be obligatory upon the successors and assigns of the respective parties hereto and shall become operative and of force from and after the 25th day of October, A. D. 1892.

In witness whereof, the parties have caused their corporate names to be hereto subscribed by their respective presidents and their

corporate seals to be affixed and attested by their respective secretaries, on the day and year first above written.

LOUISVILLE, NEW ORLEANS & TEXAS RAILWAY COMPANY,

[SEAL.] By R. T. WILSON, *President.*

Attest: CHARLES H. BOSHER, *Secretary.*

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY,

[SEAL.] By STUYVESANT FISH, *President.*

Attest: ALEXANDER G. HACKSTAFF, *Secretary.*

STATE OF NEW YORK, }
City and County of New York, } ss:

Be it remembered that on this twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Tennessee in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the Louisville, New Orleans & Texas Railway Company, and Charles H. Bosher, secretary of the same company, to me personally known and known to me to be such officers of said company, who, being by me severally duly sworn, did depose and say that the said Richard T. Wilson was the president and the said Charles H. Bosher was the secretary of
191 the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereto by like order as president and secretary of said company respectively.

In witness whereof I have hereunto set my hand and affixed my official seal this twenty-fourth day of October, A. D. 1892.

[SEAL.] GEO. H. TAYLOR,
Commissioner for Tenn. in N. Y.,
[SEAL.] *and Notary Public, N. Y. County.*

STATE OF NEW YORK, }
City and County of New York, } ss:

Be it remembered that on this twenty-fourth day of October, A. D. 1892, before me, Geo. H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, personally appeared Richard T. Wilson, president of the Louisville, New Orleans & Texas Railway Company, and Charles H. Bosher, secretary of the same company, to me personally — and known to me to be such officers of said company, who, being by me severally duly sworn, did depose and say that the said Richard T. Wilson was the

president and the — Charles H. Bosher was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereto by like order as president and secretary of said company respectively.

In witness whereof I have hereunto set my hand and affixed my official seal this twenty-fourth day of October, 1892.

[SEAL.] GEO. H. TAYLOR,
Commissioner for Miss. in N. Y.,
[SEAL.] *and Notary Public, N. Y. County.*

192 STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on this twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Louisiana in and for the State of New York, residing in said city and county of New York, personally appeared Richard T. Wilson, president of the Louisville, New Orleans & Texas Railway Company, and Charles H. Bosher, secretary of the same company, to me personally known and known to me to be such officers of the said company, who, being by me severally duly sworn, did depose and say that the said Richard T. Wilson was the president and the said Charles H. Bosher was the secretary of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of the said company, and that they, the said Richard T. Wilson and Charles H. Bosher, signed their names thereto by like order as president and secretary of said company respectively.

In witness whereof I have hereunto set my hand and affixed my official seal this twenty-fourth day of October, A. D. *L.*

[SEAL.] GEORGE H. TAYLOR,
Commissioner for La. in N. Y. and
[SEAL.] *Notary Public, N. Y. County.*

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on the twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Tennessee in and for the State of New York, residing in said city and county of New York, personally appeared Stuyvesant Fish, president of the Yazoo & Mississippi Valley Railroad Company, and Alexander G. Hackstaff, secretary of the same company, to me personally known and known to
193 me to be such officers of said company, who, being by me severally duly sworn, did depose and say that he, the said

Stuyvesant Fish, was the president, and that he, the said Alexander G. Hackstaff, was the secretary, of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Stuyvesant Fish and Alexander G. Hackstaff, signed their names thereto by the like order as president and secretary of the said company respectively.

In witness whereof I have hereunto set my hand and affixed my official seals this twenty-fourth day of October, A. D. 1892.

[SEAL.] GEORGE H. TAYLOR,
Commissioner for Tenn. in N. Y. and
[SEAL.] *Notary Public, N. Y. Co.*

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on the twenty-fourth day of October, A.D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Mississippi in and for the State of New York, residing in said city and county of New York, personally appeared Stuyvesant Fish, president of the Yazoo & Mississippi Valley Railroad Company, and Alexander G. Hackstaff, secretary of the same company, to me personally known and known to me to be such officers of said company, who, being by me severally duly sworn, did depose and say that he, the said Stuyvesant Fish, was the president, and that he, the said Alexander G. Hackstaff, was the secretary, of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Stuyvesant Fish and Alexander G. Hackstaff, signed their names thereto by the like order as president and secretary of said company respectively.

194 In witness whereof I have hereuunto set my hand and affixed the official seal this twenty-fourth day of October, A. D. 1892.

[SEAL.] GEORGE H. TAYLOR,
Commissioner for Mississippi in New York and
[SEAL.] *Notary —, New York County.*

STATE OF NEW YORK, }
City and County of New York, } *ss:*

Be it remembered that on the twenty-fourth day of October, A. D. 1892, before me, George H. Taylor, a duly appointed notary public in and for the city and county of New York, State of New York, and commissioner for the State of Louisiana in and for the State of New York, residing in city and county of New York, personally appeared Stuyvesant Fish, president of the Yazoo & Mississippi Valley Railroad Company, and Alexander G. Hackstaff, secretary

of the same company, to me personally known and known to me to be such officer of said company, who, being by me severally duly sworn, did depose and say that he, the said Stuyvesant Fish, was the president, and that he, the said Alexander G. Hackstaff, was the secretary, of the said company; that they knew the corporate seal of said company; that the seal affixed to the foregoing instrument was such corporate seal, and that it was so affixed thereto by order of the board of directors of said company, and that they, the said Stuyvesant Fish and Alexander G. Hackstaff, signed their names thereto by the like order as president and secretary of said company respectively.

In witness whereof I have hereunto set my hand and affixed my official seal this twenty-fourth day of October, A. D. 1892.

[SEAL.] GEORGE H. TAYLOR,
Commissioner for Louisiana in New York and
[SEAL.] *Notary Public, New York County.*

195 I hereby certify that the foregoing is a true copy of the agreement of consolidation made on the 24th day of October, 1892, by and between the Louisville, New Orleans & Texas Railway Company and the Yazoo & Mississippi Valley Railroad Company, and that the same has actually gone into effect this twenty-fifth day of October, 1892.

Witness the seal of the Mississippi Valley Railroad Company and the signature of the secretary this 25th day of October, 1892.

[SEAL.] A. G. HACKSTAFF, *Secretary.*

STATE OF MISSISSIPPI, }
Office of Secretary State. }

I, Geo. M. Govan, secretary of state, do certify that the foregoing and annexed copy of articles of consolidation of the "Louisville, New Orleans & Texas Railway Company" and the Yazoo & Mississippi Valley Railroad Company" *were* present- and filed in the office of secretary of state of the State of Mississippi on the 27th day of October, A. D. 1892.

Given under my hand and the great seal of the State of Mississippi this 27th day of October, A. D. 1892.

GEO. M. GOVAN,
Secretary of State.

OFFICE OF SECRETARY OF STATE, }
Jackson, Mississippi. }

I, Geo. M. Govan, secretary of state, State of Mississippi, do hereby certify that the foregoing is a true and correct copy of the "articles of consolidation of the Louisville, New Orleans and Texas Railway Company and the Yazoo & Mississippi Valley Railroad Company," as the same now appears on file in the office of secretary of state of the State of Mississippi.

Given under my hand and the great seal of the State of Mississippi this 15th day of November, A. D. 1892.

[SEAL.] GEO. M. GOVAN,
Secretary of State.

196 EXHIBITS D AND E.

STATE OF MISSISSIPPI, }
County of Adams. }

Personally appeared before me, the undersigned, Allison H. Foster, clerk of the chancery court of the county aforesaid, A. M. Cooke, president of the Natchez, Jackson & Columbus Railroad Company, with whom I am personally acquainted and whom I know to be president of said company, who, being first duly sworn, made oath and deposed as follows:

1. That he is the president of the Natchez, Jackson & Columbus Railroad Company, a corporation existing under the laws of the State of Mississippi.

2. That in the year 1891 the said railroad company applied as much as the sum of $75,000 *dollars* to the payment of the debts and liabilities which said company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing the same.

3. That the amount of all the taxes upon said railroad for the year of 1891 in the county of Adams, State of Mississippi, *have* actually and in good faith been paid and applied during the year 1891 in the payment of the debts incurred or the money borrowed, as aforesaid, and that the amount of the taxes upon said railroad in the county of Adams, State of Mississippi, in and for the year 1891 *have* actually and in good faith been paid and applied to the payment of the debts incurred or money borrowed in the construction of said railroad in said county of Adams during the year 1891.

4. That the income and profits derived from the said railroad and the use and operation thereof for the year 1891 or for any year since its construction have not been sufficient to pay any dividend to its stockholders or owners, and that for the year 1891 the profits of said company or the profits derived from the use and operation of said railroad have not either or both been sufficient to en-
197 able it to declare and pay to the stockholders an annual dividend of eight per cent. on its capital stock over and above the payment of its debts and liabilities.

A. M. COOKE.
N., J. & C. R. R. CO.

Sworn to and subscribed before me this 5th day of November, A. D. 1892.

ALLISON H. FOSTER, *Clerk*,
By WM. A. FOSTER, *D. C.*

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'- OFFICE,
NATCHEZ, MISS., *Nov'r* 5, 1892.

On advice of counsel, I respectfully decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R., Natchez division, in the county of Adams & State of Mississippi, for the year 1891, said taxes not having been paid and the within affidavit not being reg-rded by me as sufficient to warrant me in receiving the same in lieu of the said taxes or to justify me in giving such receipt.

JAS. W. LAMBERT,
Tax Collector, Adams County.

STATE OF TENNESSEE, } *ss:*
County of Shelby, }

Personally appeared before me, the undersigned, H. B. Belt, a commissioner for the State of Mississippi, duly appointed and qualified according to the laws thereof and resident in Memphis, Tennessee, James M. Edwards, with whom I am personally acquainted, who, being first duly sworn, made oath and deposed as follows:

1. That he was prior to the 25th day of October, 1892, vice-president and cashier of the Louisville, New Orleans & Texas Railway Company, a corporation existing under the laws of the State of Mississippi prior to said date.

2. That on the 28th day of March, *1900*, the Natchez, Jackson & Columbus Railroad Company, by deed duly executed and delivered, granted, bargained, sold, assigned, transferred, and conveyed to the Louisville, New Orleans & Texas Railway Company, as it was by law authorized to do, the railroad theretofore constructed and owned by said Natchez, Jackson & Columbus Railroad Com-
198 pany, from Natchez to Jackson, Mississippi, and also the immunity from taxation then held, enjoyed, and possessed by said Natchez, Jackson & Columbus Railroad Company, together with the r*i*ght to apply the amount of all such taxes as said Natchez, Jackson & Columbus Railroad Company might be subject to the payment of the debts and liabilities which were incurred by the Natchez, Jackson & Columbus Railroad Company in the construction of said railroad or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used by said company in constructing said road and in paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same, and also all other property owned at said date by the Natchez, Jackson & Columbus Railroad Company in the county of Adams and State of Mississippi.

3. That the sale, conveyance, and transfer of the railroad running from Natchez to Jackson, Mississippi, and also the immunity from taxation then held and possessed by the Natchez, Jackson & Columbus Railroad Company, together with the right to apply the amount of all such taxes as said Natchez, Jackson & Colum-

bus Railroad Company was subject to to the payment of the debts and liabilities which the Natchez, Jackson and Columbus Railroad Company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson and Columbus Railroad Company to be used and which was used by said company in constructing said railroad and paving debts incurred by said Natchez, Jackson and Columbus Railroad Company in constructing the same, was made by said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, subject to an indebtedness of $1,250,000, which said sum was incurred by the Natchez, Jackson and Columbus Railroad Company in the construction of the railroad from Natchez to Jackson, Mississippi, by said company or *for* in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paving debts incurred by said company in constructing the same, and which said indebtedness is evidenced by the bonds of said Natchez, Jackson & Columbus Railroad Company for said
199 sum of $1,250,000.00, and which said indebtedness and said bonds are still outstanding and unpaid.

4. That in the year 1891 the Louisville, New Orleans & Texas Railway Company applied as much as the sum of $75,000 *dollars* to the payment of the debts of the Natchez, Jackson & Columbus Railroad Company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used by said company in constructing said railroad and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same.

5. That the amount of all the taxes upon said railroad constructed by the Natchez, Jackson & Columbus Railroad Company from Natchez to Jackson, Mississippi, and upon the other property sold and conveyed by said company, situated in the county of Adams, State of Mississippi, to the Louisville, New Orleans & Texas Railroad Company for the year 1891, in the county of Adams, State of Mississippi, *have* actually and in good faith been paid and applied during the year 1891 in the paying of the debts and liabilities incurred in the construction of the railroad from Natchez to Jackson, — & Columbus Railroad Company, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing the same, and that the amount of the taxes upon said railroad and other property situated in the county aforesaid conveyed by the said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, as aforesaid, in the county of ——, State of Mississippi, in and for the year 1891, *have* actually and — good faith been applied to the payment of the debts incurred or money borrowed and used in the construction of said railroad in said county of Adams during the year 1891.

6. That the income and profits derived from the said railroad constructed from Natchez to Jackson, Mississippi, by the Natchez, Jackson & Columbus Railroad Company, and by it sold
200 and conveyed to the Louisville, New Orleans & Texas Railway Company, as aforesaid, and the use and operation thereof for the year 1891, or for any year since its construction, have not been sufficient to pay any dividend to either the stockholders of the Natchez, Jackson & Columbus Railroad Company, the Louisville, New Orleans and Texas Railway Company, or the Yazoo & Mississippi Valley Railroad Company, or the owners of such railroad, and that for the year 1891 neither the profits of the L., N. O. & T. R. Ry. Co. nor of the Yazoo & Mississippi Valley Railroad Company, or the profits derived from the use and operation of said railroad from Natchez to Jackson, Mississippi, have either or both been sufficient to enable either of said companies to declare and pay to the stockholders thereof an annual dividend of 8 per cent. or any per cent. on the capital stock of said companies or either — them over and above the payment of their debts and liabilities.

7. That on the 24th day of October, 1892, the Louisville, New Orleans and Texas Railway Company was merged into and was consolidated with the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi, and by which the Yazoo & Mississippi Valley Railroad Company became entitled to all the property, rights, privileges, powers, and immunities theretofore belonging to the said Louisville, New Orleans & Texas Railway Company.

8. That he is now the third vice-president and cashier of the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi.

JAS. M. EDWARDS,
3rd Vice-President & Cashier Y. & M. V. R. R. Co.

Sworn to and subscribed before me this 4th day of November, 1892, and in testimony whereof witness my signature and official seal.

[SEAL.] H. B. BELT,
Com. for Mississippi.

201 THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *Nov'r* —, 1892.

On advice of counsel, I respectfully decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R., Natchez division, in the county of Adams, State of Mississippi, for the year 1891, said taxes not having been paid and the within affidavit not being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes or to justify me in giving such receipt.

JAS. W. LAMBERT,
Tax Collector, Adams County.

STATE OF MISSISSIPPI, }
County of Adams. }

Personally appeared before me, the undersigned, Allison H. Foster, clerk of the chancery court of the county aforesaid, A. M. Cooke, president of the Natchez, Jackson & Columbus Railroad Company, with whom I am personally known and whom I know to be the president of said company, who, being first duly sworn, made oath and deposed as follows:

1. That he is the president of the Natchez, Jackson & Columbus Railroad Company, a corporation existing under the laws of the State of Mississippi.

2. That in the year 1892 the said railroad company applied as much as the sum of $75,000 *dollars* to the payment of the debts and liabilities which said company incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing the same.

3. That the amount of all the taxes upon said railroad for the year 1892 in the county of Adams, State of Mississippi, *have* actually and in good faith been paid and applied during the year 1892 in the payment of the debts incurred or the money borrowed as aforesaid, and
202 that the amount of the taxes upon said railroad in the county of Adams, State of Mississippi, in and for the year — *have* actually and in good faith been — and applied to the payment of the debts incurred or money borrowed in the construction of said railroad in said county of Adams during the year 1892.

4. That the income and profits derived from the said railroad and the use and operation thereof for the year 1892 or for any year since its construction have not been sufficient to pay any dividend to its stockholders or owners, and that for the year 1892 the profits of said company or the profits derived from the use and operation of said railroad have not, either or both, been sufficient to enable it to declare and pay to the stockholders an annual dividend of eight per cent. on its capital stock over and above the payment of its debts and liabilities.

A. M. COOKE,
Pres't N., J. & C. R. R. Co.

Sworn to and subscribed before me this 5 day of November, A. D. 1892.

ALLISON H. FOSTER, *Clerk,* [SEAL.]
By WM. A. FOSTER, *D. C.*

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *Nov'r 5, '92.*

On advice of counsel, I respectfully decline to give a receipt for the taxes assessed against the L., N. O. & T. R'y Co., Natchez, Jackson & Columbus division, in the county of Adams, State of Mississippi, for the year 1892, said taxes not having been paid and the within affidavit not being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes or to justify me in giving such receipt.

JAS. W. LAMBERT,
Tax Collector, Adams County.

STATE OF TENNESSEE, }
County of Shelby. }

Personally appeared before me, the undersigned, H. B. Belt, a commissioner for the State of Mississippi, duly appointed and qualified according to the laws thereof, and resident in Memphis,
203 Tennessee, James M. Edwards, with whom I am personally acquainted, who, being first duly sworn, made oath and deposed as follows:

1. That he was prior to the 24th day of October, 1892, vice-president and cashier of the Louisville, New Orleans & Texas Railway Company, a corporation existing under the laws of the State of Mississippi prior to said date.

2. That on the 28th day of March, 1890, the Natchez, Jackson & Columbus Railroad Company, by deed duly executed and delivered, granted, bargained, sold, assigned, transferred, and conveyed to the Louisville, New Orleans & Texas Railway Company, as it was by law authorized to do, the railroad there-fore constructed and owned by said Natchez, Jackson & Columbus Railroad Company from Natchez to Jackson, Mississippi, and also the immunity from taxation then held, enjoyed, and possessed by said Natchez, Jackson & Columbus Railroad Company, together with the right to apply the amount of all such taxes as said Natchez, Jackson & Columbus Railroad Company — in the construction of said railroad or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company in constructing said railroad and in paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same, and also all other property owned at said date by the Natchez, Jackson & Columbus Railroad Company in the county of Adams and State of Mississippi.

3. That the sale, conveyance, and transfer of the railroad running from Natchez to Jackson, Mississippi, and also the immunity from taxation then held and possessed by the Natchez, Jackson & Columbus Railroad Company, together with the right to apply the amount of such taxes as said Natchez, Jackson & Columbus Railroad Company was subject to to the payment of the debts and liabilities which the Natchez, Jackson & Columbus Railroad Com-

pany incurred in the construction of the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company in constructing said railroad and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same, was made by said Natchez, Jackson & Columbus Railroad Company to the Louisville, New Orleans & Texas Railway Company, subject to an indebtedness of $1,250,000, which said sum was incurred by the
204 Natchez, Jackson & Columbus Railroad Company in the construction of the railroad from Natchez to Jackson, Mississippi, by said company or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing the same, and which said indebtedness is evidenced by the bonds of said Natchez, Jackson & Columbus Railroad Company for said sum of $1,250,000.00, and which said indebtedness and said bonds are still outstanding and unpaid.

4. That in the year 1892 the Louisville, New Orleans & Texas Railway Company applied as much as the sum of $75,000 *dollars* to the payment of the debts and liabilities which the Natchez, Jackson & Columbus Railroad Company incurred in the construction — the railroad from Natchez to Jackson, Mississippi, or in payment for money borrowed by said Natchez, Jackson & Columbus Railroad Company to be used and which was used by said company in constructing said railroad and paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same.

5. That the amount of all the taxes upon said railroad constructed by the Natchez, Jackson & Columbus Railroad Company from Natchez to Jackson, Mississippi, and upon the other property sold and conveyed by said company situated in the county of Adams, State of Mississippi, to the Louisville, New Orleans & Texas Railway Company for the year 1892, in the county of Adams, State of Mississippi, *have* actually and in good faith been paid and applied during the year 1892 in the payment of the debts and liabilities incurred in the construction of the railroad from Natchez to Jackson, Mississippi, by the Natchez, Jackson and Columbus Railroad Company to be used and which was used in constructing said railroad and paying debts incurred by said company in constructing the same, and that the amount of the taxes upon said railroad and other property situated in the county aforesaid conveyed by the said Natchez, Jackson and Columbus Railroad Company to the Louisville, New Orleans and Texas Railway Company, as aforesaid, in the county of ——, State of Mississippi, in and for the year 1892 *have* actually and in good faith been applied to the payment of the debts incurred or money borrowed and used
in the construction of said railroad in said county of Adams
205 during the year 1892.

6. That the income and profits derived from the said railroad constructed from Natchez to Jackson, Mississippi, by the

Natchez, Jackson and Columbus Railroad Company and by it sold and conveyed to the Louisville, New Orleans and Texas Railway Company, as aforesaid, and the use and operation thereof for the year 1892 or for any year since its construction have not been sufficient to pay any dividend to either the stockholders of the Natchez, Jackson and Columbus Railroad Company, the Louisville, New Orleans and Texas Railway Company, or the Yazoo & Mississippi Valley Railroad Company or the owners of such railroad, and that for the year 1892 neither the profits of the L., N. O. & T. R'y Co. nor of the Yazoo & Mississippi Valley Railroad Company or the profits derived from the use and operation of said railroad from Natchez to Jackson, Mississippi, have either or both been sufficient to enable either of said companies to declare and pay to the stockholders thereof an annual dividend of 8 per cent. on the capital stock of said companies or either of them over and above the payment of their debts and liabilities.

7. That on the 24th day of October, 1892, the Louisville, New Orleans and Texas Railway Company was merged into and was consolidated with the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi, and by which the Yazoo & Mississippi Valley Railroad Company became entitled to all the property, rights, privileges, powers, and immunities theretofore and then belonging to the said Louisville, New Orleans and Texas Railway Company.

8. That he is now the third vice president of the Yazoo & Mississippi Valley Railroad Company, a corporation existing under the laws of the State of Mississippi.

JAS. M. EDWARDS,
3rd V. P. and Cashier Y. & M. V. R. R. Co.

Sworn to and subscribed before me this 4th day of November, 1892, and in testimony whereof witness my signature and official seal.

[SEAL.]

H. B. BELT,
Com. for Miss.

206 THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE, NATCHEZ, MISS., *Nov'r 5, '92.*

On advice of counsel, I respectfully decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R'y Co., Natchez, Jackson and Columbus division, in the county of Adams, State of Mississippi, for the year 1892, said taxes not having been paid, and the within affidavit not being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes or to justify me in giving such receipt.

JAS. W. LAMBERT,
Tax Collector, Adams County.

Copy.

Assessment-roll of the Louisville, New Orleans and Texas, N., J. & C. Div., Railway Company.

[SEAL.]

For Adams county, Mississippi, for the year 1892.

Description of property.	Valuation by commissioner after objections heard.
13.300 miles track, franchises, and rolling stock	133,000
1.828 miles side track	4,570
2 depot-; value includes land and lot	2,600
1 stock pen; value includes *in* depot	
2 section-house-; v-lue includes land and lots	250
Total	140,420
State tax	$702.10

A true copy from the original roll.

JAS. W. LAMBERT,
Tax Collector.

County tax:

On valuation inside city, as per page attached—valuation, $25,562, @ 10 mills	$255.62
On valuation outside city, $114,858, @ 11 mills	1,263.43
Total county tax	$1,519.05
Total State and county tax	$2,221.15

JAS. W. LAMBERT,
Tax Collector.

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Copy.

Assessment-roll of the Louisville, New Orleans and Texas, N., J. & C. Div., Railway Company.

[SEAL.]

For Natchez, Adams county, Mississippi, for the year 1892.

Description of property.	Valuation by commissioners after objection heard.
1.868 miles main track, franchises, and rolling stock	18,680
1.713 miles side track	4,282
1 depot; value includes land and lots	2,600
1 stock pen; value includes *in* depot	
Total	25,562

A true copy from the original roll.

JAS. W. LAMBERT,
Tax Collector.

City tax rate (municipality), 17½ mills; therefore city taxes amount to $447.33.

EXHIBIT "F."

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISSISSIPPI, *November 12th*, 1892.

I hereby certify that the personal assessment-roll containing the "assessment of personal property and polls in Natchez election precinct, supervisors' district No. 1, county of Adams, for the fiscal year 1891," contains the following assessment, to wit, "L., N. O. & T. R. R. (Natchez division)," in column of said roll designated therein "amount of all other personal property not otherwise enumerated," 150,000.00, and carried out on column in said roll designated "total value of property," 150,000.00, and further extended in column of said roll designated "aggregate State tax," $525.00.

I hereby further certify that the amount of State & county
208 taxes due on said total value of property (viz., $150,000) for the fiscal year 1891 is as follows, to wit:

State tax at 3½ mills on the dollar	$525.00
County 18½	1,875.00
Total tax..... ...	$2,400.00

JAS. W. LAMBERT,
Tax Collector Adams County, Mississippi.

EXHIBIT "G."

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISSISSIPPI, *November 12th*, 1892.

I hereby certify that the land assessment-roll of 1889, containing the "assessment of lands in the county of Adams, class No. 2, for the fiscal year 1889, and amount — State tax thereon," contains the following assessment, to wit:

"Natchez, Jackson & C. R. road," "depot grounds, W. side, N. Broadway St.," extended in columns in said roll designated "total value of cleared land, $–0,000.00;" and further extended in column of said roll designated "total value of both cleared and uncleared land, $30,000.00;" and further extended in column of said roll designated "amount of State tax for 1889 on lands and improvements, at 4 mills on valuation, $120.002.

I hereby certify that the amount of the State & county taxes due on the said land and improvements, valued at $30,000.00, for the fiscal year 1891, is as follows, to wit:"

State tax @ 3½ mills on the dollar..... .. .. $105.00
County " " 12½ mills.... .... 375.00

Total tax..... .... $480.00

JAS. W. LAMBERT,
Tax Collector, Adams County, Mississippi.

And on the same day, to wit, November 14th, 1892, the injunction bond was filed, same being in the words and figures following, to wit:

Know all men by these presents that we, the Natchez, Jackson and Columbus Railroad Company, the Yazoo & Mississippi Valley Railway Company, Wm. G. Yerger, Le Roy Percy, and the Merchants' and Planters' bank, are held and firmly bound unto the State of Mississippi in the sum of eleven thousand and ninety-six & $\frac{96}{100}$ dollars ($11,096.96); to the payment of which we bind ourselves.

209 Signed and dated this 8th day of Nov., 1892.

The condition of the above obligation is such that whereas the above-bound Natchez, Jackson and Columbus Railroad Company & Yazoo & Mississippi Valley Railroad Company have applied for an injunction restraining the sheriff of Adams county, Mississippi, from collecting taxes on the property in said Adams Co. of said railroad companies levied and assessed on same for the years 1891 and 1892, and which said taxes amount to the sum of five thousand and forty-eight and $\frac{48}{100}$ dollars ($5,048.48), and having obtained such injunction restraining said sheriff and tax collector of the said county of Adams from collecting said taxes:

Now, therefore, if the said Natchez, Jackson and Columbus R. R. Co. and the Yazoo and Mississippi Valley R. R. Co. shall well, truly, and promptly pay the taxes enjoined and all damages and costs in case the injunction granted, as aforesaid, be dissolved, then this obligation to be void; otherwise to remain in full force and effect.

NATCHEZ, JACKSON AND COLUMBUS
RAILROAD COMPANY,
By YERGER & PERCY, *Solicitors.*
YAZOO & MISSISSIPPI VALLEY RAIL-
ROAD COMPANY,
By YERGER & PERCY, *Att'ys.*
WM. G. YERGER.
MERCHANTS' & PLANTERS' BANK,
By J. S. WALKER, *President.*

I hereby approve this bond.

W. R. TRIGG, *Chancellor, &c.*

Nov'r 8th, 1892.

The following summons to James W. Lambert, sheriff and tax collector and defendant in this cause, was served on him by Pat. Foley, coroner, &c., same being in the words and *words and* figures following, to wit:

THE STATE OF MISSISSIPPI, *Adams County,* } *To wit:*

The State of Mississippi to James W. Lambert, sheriff and tax collector of Adams county, Mississippi, Greeting:

For certain causes offered before us in our chancery court of Adams county we command and strictly enjoin you that, laying all other matters aside and notwithstanding any excuse, you personally appear at the chancery court of Adams county, to be holden at the court-house, in the city of Natchez, on the first Monday in March, 1893, next ensuing, to answer a bill of complaint exhibited against you by The Natchez, Jackson and Columbus R. R. Co. *et al.*, complainants, in our said court.

And further to do and receive what our said court shall have considered of in this behalf; and this you shall in nowise omit, under the penalty of one hundred dollars, as well as the consequences that may fall thereon; and have then there this writ.

To the coroner of Adams county to execute and return.

Issued the 14th day of November, A. D. 1892.

[SEAL.] ALLISON H. FOSTER, *Clerk.*

The following endorsement on the summons contains the following words and figures, to wit:

Received Nov'r 14, '92.

PAT. FOLEY, *Coroner.*

I have this day executed the within writ personally by delivering to the within-named defendant, James W. Lambert, sheriff and tax collector, a true copy of this writ this the 14th day of November, A. D. 1892.

PAT. FOLEY, *Coroner.*

Coroner's Fee.

Serv'g writ.....	1.50
E. & R.....	.50
	$2.00

And on the same day, to wit, November 14th, 1892, the following injunction was served on the sheriff and tax collector of said Adams county by Pat. Foley, the coroner of said county, same being in the words and figures following, to wit:

THE STATE OF MISSISSIPPI, *Chancery Court of Adams County,* } *To wit:*

To James W. Lambert, sheriff and tax collector, Adams Co., Miss., Greeting:

Whereas it hath been represented to us in our court of chancery on the part of The Natchez, Jackson and Columbus Railroad Company and The Yazoo & Mississippi Valley R. R. Co., complainants, that they have lately exhibited their bill against you, James W. Lambert,

sheriff and tax collector of Adams county, Mississippi, de-
211 fendant, to be relieved touching the matters in said bill contained: We therefore, in consideration of the premises and of the allegations in said bill contained, strictly enjoin and command you, the said James W. Lambert, sheriff and tax collector of Adams county, Mississippi, under the penalty of eleven thousand one hundred dollars, to be levied on your goods and chattels, lands and tenements, to our use, that you absolutely refrain from proceeding to collect the taxes of 1891 and 1892 claimed by you to be due, as aforesaid, on the property in Adams county, Miss., of the Natchez, Jackson and Columbus Railroad Company or that of the Yazoo & Mississippi Valley Railroad Company acquired by said last-named company from the Louisville, New Orleans and Texas Railway Company and by said Louisville, New Orleans and Texas Railway Company acquired from the Natchez, Jackson and Columbus Railroad Company, and from any further proceedings against the said complainant touching any of the matters in said bill contained until our said court shall make another order to the contrary.

Witness the Honorable Claude Pintard, judge of the 4th chancery district of said State, the 14th day of November, one thousand eight hundred and ninety-two, and seal of said court.

Issued the 14th day of November, 1892.

To the coroner of Adams county to execute and return.

[SEAL.] ALLISON H. FOSTER, *Clerk.*

Endorsed on said injunction is the following:

Received Nov'r 14, '92.

PAT. FOLEY, *Coroner.*

I have this day executed the within writ personally by delivering to the within-named defendant, Jas. W. Lambert, tax collector and sheriff, a true copy of this writ, this the 14th day of November, A. D. 1892.

PAT. FOLEY, *Coroner.*

Coroner's Fee.

Serv'g writ.....	1.50
E. & R.....	.50
	$2.00

212 And afterwards, on the 6th day of March, A. D. ——, the plea and demurrer of defendant was filed, same being in the words and figures following, to wit:

STATE OF MISSISSIPPI,
Adams County.

Chancery Court of said County, March Term, 1893.

THE NATCHEZ, JACKSON AND COLUMBUS R. R. CO. ET AL.,
Complainants,
vs.
JAMES W. LAMBERT, Sheriff and Tax Collector of Adams County, Miss., Defendant.
No. 1207.

The said defendant, not confessing or acknowledging, &c., for plea unto a part of said bill of complaint, viz., unto so much and such parts of said bill as contain allegations and reference to the taxes for the year 1891 of the property mentioned in said bill, or seeks to bring into question the right of said defendant to collect the same or to raise any issue or issues with regard to said taxes or their legality, and further and especially as to so much and such parts of the prayer of said bill as seeks to restrain or enjoin defendant from proceeding to collect the said taxes for the year 1891, and requiring defendant to deliver to complainants a receipt therefor or in any manner ask or seek relief as to said taxes of the year 1891, pleads and says that on the 29th day of February, A. D. 1892, the said Louisville, New Orleans and Texas Railway Company, grantee of the said Natchez, Jackson and Columbus Railroad Company, and subsequently, to wit, on the 24th day of October, 1892, consolidated into the said Yazoo & Mississippi Valley Railroad Co., exhibited its bill of complaint and filed the same in this honorable court against this defendant, in said bill setting up the alleged illegality of the identical same said taxes on the same property for the said year 1891, the want of authority in defendant to collect the same, and praying that the collection of said taxes be enjoined; that this defendant filed his demurrer to said bill, & that thereupon such further or other proceedings were had in said cause, which was and is numbered No. 1174 of the general docket of this honorable court, that on the 22nd day of October, 1892, a final
213 decree was rendered in this honorable court sustaining said demurrer, dissolving the injunction, & dismissing said bill, and that at the same term of court the said complainant in said bill of complaint obtained an order allowing it an appeal from said final decree to the supreme court of the State of Mississippi, and that subsequently, to wit, on the 14th day of February, 1893, said cause No. 1174 was removed to the said supreme court, and that said cause is now in said supreme court pending; all of which pleadings, proceedings, & decree this defendant now here pleads in bar of the said bill of complaint herein so far as the same seeks to bring into question or to raise an issue about or seek relief against said taxes of said year 1891, and makes the said bill, demurrer, and proceedings in said cause No. 1174 a part of this plea as fully as if the same were incorporated herein, and alleges that in said last-named cause all the rights of the parties to the present bill were fully settled as to said taxes for the year 1891 in this court, and

so defendant prays the judgment of the honorable court whether he should be required to make any other or further answer to the present bill as to said taxes of 1891 or the other matters herein pleaded against.

K. PALMER LANNEAU,
Sol. for Def't.

Sworn to and subscribed before me this 6th day of March, 1892.
ALLISON H. FOSTER, *Clerk.*

The following contains the whole papers in cause No. 1174 on the general docket of the chancery court in support and proof of the plea of the defendant to part of this bill of complaint of complainants in this cause No. 1207 on said docket, said cause No. 1174, offered as such proof, being in the words and figures following, to wit:

"*Bill of Complaint.*"

STATE OF MISSISSIPPI,
County of Adams.

Chancery Court of Adams County, Fourth District.

THE LOUISVILLE, NEW ORLEANS AND TEXAS RAILWAY COMPANY of Memphis, Tenn.,
vs.
JAMES W. LAMBERT, Tax Collector and Sheriff of said County & Their Residing.

214 To the chancery court of Adams county:

The complainants shows to the court that by act of the legislature of this State the Natchez — Jackson Railroad Company was, on the 21st of July, A. D. 1870, chartered (Acts of '70, page 221); that the legislature afterwards, in the year 1872, amended the charter by changing the corporate name to "the Natchez, Jackson and Columbus Railroad Company" (Acts 1872, page 279).

On the 20th of July, 1870, the legislature granted a charter to "the Mobile and Northwestern Railroad Company" (Acts of '70, page 255), and by the 21st section of the charter exempted that company from taxation by State, county, or municipality for 30 years (Acts of '70, page 262), and in that section provided, among other things, that "it shall be the duty of the tax collector in every county in each and every year, to give to said company a receipt in full for the amount of said taxes upon receiving from said company an affidavit made by the president or cashier, of said company, that the amount of said taxes has actually and in good faith been paid and applied by said company during the year in payment of the debts incurred or money borrowed as aforesaid and which receipt so given shall be in full of all taxes State, county and municipal, to which said company shall be subjected," with a proviso that the exemption should cease when the profits of the road should be such as to enable it to declare a dividend.

The profits of either the complainant or the Natchez, Jackson and Columbus Railroad Company have enabled — to declare a dividend of the — day of August, 1870. By act of that date the legislature extended to the Natchez, Jackson and Columbus Railroad Company the benefit of the 21st section of the charter of the Mobile and North Western Railroad Company.

The Natchez, Jackson and Columbus Railroad Company completed its road from Natchez to Jackson, Mississippi, in the year —, and on the 5th day of March, 1878, by act of that date the legislature reaffirmed the exemption of the road from taxation for the unexpired portion of the 30 years during which it had been previously exempted. The 30 years will not expire until the year 1900.

215 On the 19th day of February, A. D. 1890, the legislature, by act of that date (Acts of '90, page 675), authorized the Natchez, Jackson and Columbus Railroad Company to sell all its property and all "franchises, rights, powers, privileges, and immunities."

In pursuance of the provision of this last-mentioned act, the said Natchez, Jackson and Columbus Railroad Company transferred and conveyed, by deed duly executed and acknowledged, on the 5th day of March, A. D. 1890, to complainant, all its railroad property, "together with all franchises, rights, powers, privileges, and immunities," as shown by the deed of conveyance and transfer herewith filed as Exhibit "A."

The property conveyed by said deed is the only property in said county owned by said complainant except such rolling stock as may traverse the county.

Complainant further shows that the defendant, sheriff and tax collector as aforesaid, has seized and advertised for sale, for payment of State and county taxes claimed to be due to the State and county of Adams, the depot grounds at Natchez and one locomotive engine, all belonging to complainant, the said taxes being in the aggregate $2,880. $480 of this amount is claimed as due for taxes of '91, assessed upon said depot grounds as the property of the Natchez, Jackson and Columbus Railroad Company, as will more fully appear by the certificate of defendant hereto attached as Exhibit "B."

The sum of $2,400 is claimed as due for State and county taxes of 1891 upon an assessment which is as follows:

"L., N. O. & T. R. R., Natchez division," amount of all other personal property not otherwise enumerated, $150,000, as shown by the certificate of defendant hereto attached as Exhibit "C."

Complainants shows that by the terms of said deed the exemption from taxation enjoyed by the Natchez, Jackson and Columbus Railroad Company as a "privilege" and an "immunity" was transferred to complainant, which is & was from the date of said deed exempt from taxation on all property so conveyed to complainant.

216 Complainant made affidavit as provided for in the 21st section of act incorporating the Mobile and Northwestern Railroad Company, and demanded, upon so doing, a receipt for all the taxes. Defendant, not regarding the rights of complainant, refused to comply with the demand, as shown by Exhibit "D," here-

with filed, from which the court will be advised of the affidavit and receipt demanded and the unjust written refusal of defendant to give said receipt.

Complainant further show- that it never gave in to the tax assessor any property, real or personal, for assessment. The assessment against complainant of $150,000 as personal property subject to taxation is void for uncertainty and not warranted by law, as will be more fully shown hereinafter, &c.

That complainant, on all the road from Natchez to Jackson, Mississippi, was not the owner of personal property to the amount of *of* one-half of said assessment, & this assessment of personal property in Adams county, in which the complainant owns only about 14 miles of road, and the whole road is 98¾ miles long, is unjust, illegal, and oppressive, and must have been the result of *of* a wild guess — no facts to sustain it.

Complainant further shows that the domicile of complainant is in Memphis, Tennessee; that it is a corporation doing business in this State under and by virtue of the legal consolidation of several railroad companies chartered by the legislature of the State and two companies in other States, which are incorporated in the States of their domicile. The companies so consolidated are the New Orleans and Mississippi Valley Railroad of Louisiana, the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, the Memphis & Vicksburg Railroad Company of this State, and the Tennessee Southern Railroad Company of Tennessee. The Memphis and Vicksburg Railroad Company, by act of the legislature of 1878, was granted the benefit of the 21st section of the charter of the Mobile and Northwestern Railroad Company, Acts of 1870, pages 268 and 327.

The act to authorize the Memphis and Vicksburg Railroad Company and the Mississippi Valley and Ship Island Railroad
217 Company to effect a consolidation, Acts of 1882, page 1011, provides in the 1st section that "the company so formed by such consolidation shall be deemed and held to be a corporation under the laws of the State and shall have, enjoy, and possess all the rights, ways, privileges, franchises, property, grants, and immunities which are now possessed by the companies which may enter into such consolidation as fully as though the same was conferred especially in this act, and to that end the charters of said consolidating companies shall be taken and held as part of this act."

The Act of 1884, page 936, of the legislature of this State, authorized "the Memphis and Vicksburg Railroad Company, with or without the Mississippi Valley and Ship Island Railroad Company, to consolidate with any other railroad company or companies incorporated under the laws of this State in the manner and upon the terms and conditions and with the rights, privileges, and immunities in said act mentioned," referring to the above-mentioned act of 1882. The Acts of the Legislature of 1882, page 920, which authorized the New Orleans, Baton Rouge, Vicksburg and Memphis Railroad Company to consolidate with other companies, by the 25 section of

the act provides "that the company shall have the power and authority to purchase and hold *by* connecting railroad and to operate the same, and to consolidate the company with any other company, and when the purchase is made and consolidation perfected, the consolidated company should be entitled to all the benefits, rights, franchises, parts and — of every description belonging to said road so sold or consolidated."

Complainant further shows that it is now by consolidation and purchase the owner of the property, real and personal, and all the rights, privileges, franchises, and immunities of the railroad companies herein mentioned, and is by law exempt from taxation, irrespective of the exemption of the Natchez, Jackson and Columbus Railroad Company and by virtue of the immunities of said consolidated companies. Complainant further shows that, unless prevented by the order of this court, the said sheriff and tax collector will proceed to sell said depot grounds and locomotive, regardless of complainant's rights in the premises.

Wherefore complainants prays that said James W. Lambert, sheriff and tax collector, may be made a party defendant to this action and required to make answer, as by law provided, and that by order of this court he may be enjoined from further pro-
218 ceedings to collect said taxes, and upon final hearing that he may be perpetually enjoined in the premises; and as in duty bound, &c.

THE L–UISVILLE, NEW ORLEANS AND TEXAS RAILWAY COMPANY.
WILL T. MARTIN, *Agent & Att'y.*

WILL T. MARTIN,
Sol'r of Compl't.

STATE OF MISSISSIPPI, }
Adams County. }

Personally appeared before me Will T. Martin, solicitor of plaintiff in the foregoing bill of complaint, and made oath that the matters stated in said bill are true so far as stated on personal knowledge, and when stated on information or belief he believes them to be true.

WILL T. MARTIN.

Sworn to and subscribed before me this February 29th, A. D. 1892.

ALLISON H. FOSTER, *Clerk.*

Fiat of the Judge.

STATE OF MISSISSIPPI:

The clerk of the chancery court of Adams county will issue a writ of injunction as prayed for in the foregoing bill upon complainant entering into bond in the sum of six thousand dollars, payable to

defendant, with two or more good and sufficient sureties, to be approved by you, conditioned according to law.

Done this 29th day of February, 1892.

CLAUDE PINTARD, *Chancellor.*

EXHIBIT "A."

Natchez, Jackson and Columbus R. R. Co.
to
Louisville, New Orleans and Texas R'y Co.

This indenture made and entered — this 28th day of March 1890 by and between the Natchez Jackson and Columbus Railroad Company of the first part, and the Louisville, New Orleans and Texas Railway Company of the second part, witnesseth that, the party
219 of the first part, in consideration of the sum of one hundred & eighty thousand dollars, lawful money of the United States to it in hand paid by the party of the second part, the receipt whereof, is hereby acknowledged has granted, bargained, sold, assigned, transferred and conveyed, and hereby grants, bargains, sells, assigns transfers and conveys unto the party of the second part its successors and assigns, forever, all the railroad and other property, of the party of the first part, lying, being and situated in the State of Mississippi, together with all franchises, rights, powers, privileges and 9mmunities, unto the said party of the first part, appertaining or belonging, to have and to hold, to the said party of the second part, its successors and assigns forever, subject, however, to the existing mortgage from the party of the first part, to the Farmers' Loan and Trust Company, trustee dated September 1, 1882, securing outstanding bonds of the party of the first part, to the amount at their par or face value, of not exceeding one million two hundred and fifty thousand dollars, and subject to the current interest thereon. And in consideration of the premises the party of the first part has undertaken, covenanted and agreed and hereby undertakes, covenants and agrees, to and with the party of the second part, to provide for the interest which matured on or prior to March 1, 1890, on bonds secured by the mortgage above referred to, and provide for the payment of all other unpaid indebtedness and obligations of the party of the first part, accruing from and after May 1, 1889.

In witness whereof the party of the first part has caused these presents to be executed on its behalf by its president and its corporate seal to be hereunto affixed, and attested by its secretary, the day and year first above written.

NATCHEZ, JACKSON AND COLUMBUS R. R. CO.,
By T. J. NICHOLL, *President.*

[Corporate Seal.]

JOS. T. PENTON, *Sec'y.*

220 STATE OF MISSISSIPPI, }
Adams County. }

Personally appeared before me, J. Chas. Carson, a justice of the peace and *ex officio* notary public in and for the county and State aforesaid, the within-named T. J. Nicholl and Jos. T. Penton, who, being by me duly sworn, depose, say, and acknowledge that they signed, sealed, and delivered the foregoing deed on the day and year therein named as the act and deed of the Natchez, Jackson and Columbus Railroad Company, the said T. J. Nicholl deposing and acknowledging that he signed and delivered said deed as the president of the said company and by authority of a resolution of the board of directors of said company, and the said Jos. T. Penton deposing and acknowledging that he signed said deed and affixed the corporate seal of said company to said deed by authority of a resolution of the board of directors of said company and as the secretary of said company. And the said T. J. Nicholl and Jos. T. Penton further depose, say, and acknowledge that they know the corporate — of said Natchez, Jackson and Columbus Railroad Company, and that the seal so affixed to said deed is the seal of said Natchez, Jackson and Columbus Railroad Company, & was so affixed by the order of the board of directors of said company.

In witness whereof I have hereunto set my hand and affixed my official seal this 28th day of March, A. D. 1890.

[SEAL.] J. CHAS. CARSON,
J. P. and ex Officio Notary Public.

Filed for record in my office this 15th day of April, A. D. 1890, at 2.10 o'clock p. m.

ALLISON H. FOSTER, *Clerk.*

Recorded April 16th, 1890.

STATE OF MISSISSIPPI, }
Adams County, } *ss:*

I, Allison H. Foster, clerk of the chancery court of said county, do hereby certify that the foregoing two pages of what precedes this certificate on this page contains and exhibits a true and perfect copy of the record of the original deed from the Natchez, Jackson
221 and Columbus Railroad Company to the Louisville, New Orleans and Texas Railroad Company, as the same now appears of record in my office, in the deed records of said county, Book "3 E," pages 324, 325, and 326, of said county.

Witness my hand and the seal of said court, at the city of Natchez, this February 24th, A. D. 1892.

[SEAL.] ALLISON H. FOSTER,
Clerk of the Chancery Court.

EXHIBIT "B."

THE STATE OF MISSISSIPPI,
Adams County.

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *February 24th*, 1892.

I hereby certify that the land assessment-roll of 1889, containing the "assessment of lands in the county of Adams, class No. 2, for the fiscal year 1889, and amount State tax thereon," contains the following assessment, to wit:

"Natchez, Jackson & C. r'road," depot & grounds, W. side N. Broadway St., extended in column on said — designated "total value cleared land, 30,000.00;" and further extended in column *b* of said roll designated "total value of both cleared and uncleared land, 30,000.00;" and further extended in column of said roll designated "amount of State tax for 1889 of land and improvements @ 4 mills on valuation, $120.00." I hereby further certify that the amount of the State and county taxes due on the said land and improvements (valued at $30,000.00) for the fiscal year 1891 is as follows, to wit:

State tax, at 3½ mills on the dollar.....	105.00
County tax, 12½ mills on the dollar.....	375.00
Total tax..... ..	$480.00

JAS. W. LAMBERT,
Tax Collector and Sheriff, Adams County.

222 EXHIBIT "C."

THE STATE OF MISSISSIPPI,
Adams County.

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *February 24th*, 1892.

I hereby certify that the personal assessment-roll, containing the "assessment of personal property and polls in Natchez election precinct, supervisor's district No. 1, county of Adams, for the fiscal year 1891," contains the following assessment, to wit:

"L., N. O. & T. R'y *R.* (Natchez division)," in column of said roll designated thereon "amount of all other personal property not otherwise enumerated," "150,000.00;" and further extended in column of said roll designated "aggregate State tax," $525.00."

I hereby further certify that the amount of State and county taxes due on said total value of property (viz., $150,000) for the fiscal year 1891 is as follows, to wit:

State tax, at 3½ mills on the dollar.....	$525.00
County tax, at 12½ mills on the dollar.....	1,875.00
Total tax.....	$2,400.00

JAS. W. LAMBERT,
Sheriff and Tax Collector, Adams County.

EXHIBIT "D."

STATE OF TENNESSEE, }
Shelby County. }

Personally this day appeared before me, the undersigned, a commissioner duly appointed for the State of Mississippi, Jas. M. Edwards, vice-president and cashier of the Louisville, New Orleans and Texas Railway Company, who, being duly sworn, deposes and says that he is vice-president and cashier of the Louisville, New Orleans and Texas Railway Company, formed by the consolidation of the Memphis and Vicksburg Railway Company with several other railway companies under authority of an act of the legislature of the State of Mississippi, and that prior to such consolidation he was vice-president and cashier of each of the several companies out of which the Louisville, New Orleans and Texas Railway Company was created.

223 Affiant further saith that the Memphis and Vicksburg Railway Company and said Louisville, New Orleans and Texas Railway Company *has* during the year 1891 actually and in good faith paid and applied to the payment of debts and liabilities which they may have incurred in the construction of said road or for money borrowed by said company upon lands or otherwise to be used in constructing said road a sum equal to the aggregate of taxes—State, county, municipal, or other—assessed against the property of said company in the whole State of Mississippi and in the county of Adams a sum greater than the amount of taxes due on the property of said company in said county. Affiant further saith that this company has not as yet earned sufficient profits to enable it to declare and pay to the stockholders any annual dividend on its capital stock over and above the payment of its debts and liabilities.

JAS. M. EDWARDS,
Vice-President and Cashier.

See section 21 of an act incorporating the Mobile and North Western Railroad Company and act supplemental to the acts of incorporation of certain railroad companies, Acts 1870, pages 268 and 327, which require tax collectors to give to above railroad company a receipt in full for State, county, and municipal taxes.

Sworn to and subscribed before me this 14th day of Jan'y, 1892.

[SEAL.]

H. B. BELT,
Commissioner for Mississippi.

THE STATE OF MISSISSIPPI, }
Adams County. }

TAX COLLECTOR'S OFFICE,
NATCHEZ, MISS., *Feb'y 24th*, 1892.

On advice of counsel I respectively decline to give a receipt for the taxes assessed against the L., N. O. & T. R. R., Natchez division,

in the county of Adams & State of Mississippi for the year 1891, said taxes not having been paid and the within affidavit not being regarded by me as sufficient to warrant me in receiving the same in lieu of the said taxes or to justify me in giving such receipt.

JAS. W. LAMBERT,
Sheriff and Tax Collector, Adams County.

224 Received of the Louisville, New Orleans and Texas Railway Co. this — day of ——, 18—, payment in full of all State, county, — municipal taxes due on its property in the county of Adams, of the State of Mississippi, for the year 1891, which said company had the right under the laws of said State to apply to the payment of debts or liabilities which said company or its predecessors may have incurred in the construction of its road or for money borrowed by said company or its predecessors to be used in constructing said road or paying debts incurred in constructing same; said payment of the taxes aforesaid is made by said company delivering to me, as sheriff of the said county of Adams, an affidavit made by James M. Edwards, vice-president and cashier of said company, setting forth that the amount of said taxes for the year 1891, as aforesaid, have actually and in good faith been paid and applied by said company during the year 1891 in payment of the debts incurred or for money borrowed, as aforesaid, as provided for in section 21 of an act entitled "An act to incorporate the Mobile and Northwestern Railroad Company," approved July 20, 1870, and of section 5 of an act to authorize the Memphis and Vicksburg Railroad Company and the Mississippi Valley and the Ship Island Railroad Company to effect a consolidati-n, approved March 3rd, 1882, and that said company has not yet earned sufficient profits to enable it to declare a devidend on its capital stock over and above the payment of its debts and liabilities.

—— ——,
Sheriff and Tax Collector of Adams County, Miss.

225 *Injunction Bond.*

STATE OF MISSISSIPPI, *Adams County,* } *ss:*

Know all men by these presents that we, the Louisville, New Orleans and Texas Railway Company, as principal, and Audley C. Britton and S. E. Rumble, as sureties, are held and firmly bound unto the State of Mississippi in the sum of six thousand dollars, to be paid to the said State of Mississippi; to which we se-erally bind ourselves, our heirs, executors, administrators, and assigns.

Thus signed and sealed by us this 29th day of February, A. D. 1892.

The condition of this obligation is such that whereas the above-bounden The Louisville, New Orleans and Texas Railway Company has filed *his* bili of complaint in the office of the chancery clerk of said county against Jas. W. Lambert, sheriff and tax collector of Adams county, Mississippi, defendant, and has thereupon obtained

from his honor Claude Pintard, chancellor of the 4th chancery district in and for said county and State, his fiat for the issuance of an injunction, as prayed for in said bill of complaint, upon entering into bond as required by law: Now, if the said complainant, The Louisville, New Orleans and Texas Railway Company, shall well and truly pay all money and costs due or to become due to the said Jas. W. Lambert, sheriff and tax collector of Adams Co., Miss., and also such costs and damages as shall be awarded against the principal in this bond in case the said injunction shall be dissolved, then this obligation to be void; otherwise to remain in full force and effect.

[SEAL.] THE LOUISVILLE, NEW ORLEANS AND TEXAS RAILWAY COMPANY,

[SEAL.] By WILL T. MARTIN, *Agent and Att'y.*

A. C. BRITTON. [SEAL.]

S. E. RUMBLE. [SEAL.]

226 STATE OF MISSISSIPPI, }
Adams County. }

Before the clerk of the chancery court of said county personally appeared A. C. Britton and S. E. Rumble, who, being duly sworn, upon their oaths say that they are each worth the amount and penalty of the within bond, in visible property in this State, over and above their liabilities, securities, mortgages, &c., and above the exemption laws of this State as now in force.

A. C. BRITTON.
S. E. RUMBLE.

Sworn to and subscribed before me this 29th day of February, A. D. 1892.

ALLISON H. FOSTER, *Clerk.*

Approved by me this Feb'y 29th, 1892.

ALLISON H. FOSTER, *Clerk.*

"*Subpœna.*"

THE STATE OF MISSISSIPPI, }
Adams County, } *To wit:*

The State of Mississippi to James W. Lambert, sheriff and tax collector of Adams county, Miss., Greeting:

For certain causes offered before us in our chancery court of Adams county, we command and strictly enjoin you that, laying all other matters aside and notwithstanding any excuse, you personally appear at the chancery court of Adams county, to be holden at the court-house, in the city of Natchez, on the first Monday in March, 1892, next ensuing, to answer a bill of complaint for an injunction, &c., exhibited against you by The Louisville, New Orleans and Texas Railway Company, complainant, in our court.

And further to do and receive what our said court shall have considered of in this behalf, and this you shall in nowise omit,

under the penalty of one hundred dollars, as well as the consequences that may fall thereon; and have then there this writ.

To the coroner of Adams county to execute and return.

Issued the 29th day of February, A. D. 1892.

[SEAL.] ALLISON H. FOSTER, *Clerk.*

227 Endorsed on back of said summons is the following:

Received February 29th, 1892, & executed this Feb'y 29th, 1892, by delivering a true copy of the within writ to Jas. W. Lambert, sheriff & tax collector, in person. Pat. Foley, coroner. Fee, $2.00.

Writ of Injunction.

THE STATE OF MISSISSIPPI, *Chancery Court of Adams County,* } *To wit:*

To James W. Lambert, sheriff & tax collector of Adams county, Miss., Greeting:

Whereas it hath been represented to us in our court of chancery on the part of The Louisville, New Orleans and Texas Railway Company, complainant, that it has lately exhibited its bill against you, Jas. W. Lambert, sheriff & tax collector of Adams county, Mississippi, defendant, to be relieved touching the matters in said bill contained:

We therefore, in consideration of the premises and of the allegations in said bill contained, strictly enjoin and command you, Jas. W. Lambert, sheriff and tax collector of Adams county, Mississippi, under the penalty of six thousand dollars, to be levied of your goods and chattels, lands and tenements, to our use, that you absolutely refrain from further proceeding to collect from the Louisville, New Orleans and Texas Railway Company the taxes in Adams county, Miss., levied for the year 1891, for the State and county, against the Natchez, Jackson and Columbus Railroad Company, or depot grounds, and also the taxes levied on the personal assessment of 1891 against the Louisville, New Orleans and Texas Railway Company for the State and county for the year 1891, in Adams county, Mississippi.

And from any further proceedings against the said complainant touching any of the matters in said bill contained until our said court shall make another order to the contrary.

228 Witness the Honorable Claude Pintard, judge of the fourth chancery district of said State, the 29th day of February, one thousand eight hundred and ninety-two, and seal of said court.

Issued the 29t*y* day of February, 1892.

To the coroner of Adams county to execute and return.

[SEAL.] ALLISON H. FOSTER, *Clerk.*

The following endorsement on the back of said writ is in the following words and figures, to wit:

Received February 29th, 1892, & executed this Feb'y —, 1892, by delivering a true copy of the within writ to Jas W. Lambert, sh'ff & tax collector, in person. Pat. Foley, coroner. Fee, $2.00.

Demurrer of Defendant.

STATE OF MISSISSIPPI,
Adams County.

Chancery Court of said County, March Term, 1892.

LOUISVILLE, NEW ORLEANS & TEXAS Railway Company
vs.
JAMES W. LAMBERT, Sheriff and Tax Collector of Adams County, Miss.

No. 1174. Demurrer of Def't.

The demurrer of said Jas. W. Lambert, sheriff & tax collector of Adams county, Mississippi, to the bill of complaint of said Louisville, New Orleans & Texas Railway Company.

The said defendant demurs to said bill and prays the judgment of the court if he shall make any further answer thereto, and he shows to the court tye following causes of demurrer:

1. The said complainant hath not in and gy its bill made or stated such a case as doth or ought to entitle it to any such relief as is hereby sought and prayed for againsy this defendant.

2. It appears by complainant'- own showing in & by its said bill of complaint that it is not entitled to the relief prayed by its said bill against the defendant.

3. The allegations of said bill do not show any reason or cause why said defendant, the sheriff, &c., of said Adams county, should be restrained or enjoined from proceeding to collect by sale the taxes mentioned in said bill of complaint, which collection
229 and sale are sought and prayed in said bill to be enjoined.

4. The facts and allegations stated and set forth in said bill do not show that the complainant is entitled to *to* the so-called exemption from taxation alleged to have — granted to the Natchez, Jackson and Columbus Railroad Company.

5. The said affidavit, Exhibit D to complainant's bill, of Jas. M. Edwards, V. president and cashier of the Louisville, New Orleans and Texas Railway Company, shows on its face that the same is not sufficient to warrant the sheriff & tax collector of said Adams county in receiving the said — in lieu of the taxes sought to be collected by said sheriff and to be enjoined by said bill of complaint or to justify the sheriff, &c., in giving the receipt demanded or any receipt for said taxes.

K. PALMER LANNEAU,
Sol. for Def't.

I hereby certify that I believe the foregoing demurrer to be maintainable.

K. PALMER LANNEAU,
Sol. for Def't.

"*Final Decree.*"

LOUISVILLE, NEW ORLEANS & TEXAS RAILWAY COMPANY
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector. } No. 1174.

This cause coming on to be heard on the bill of complaint*ant* and the exhibits filed therewith and the demurrer of defendant to said bill, the court, after hearing argument thereon & after mature consideration of the case, being now fully advised in the premises, doth consider, order, adjudge, and decree that the said defendant be, and the same is hereby, dismissed, and that the injunction heretofore granted in this case be, and the same is hereby, wholly dismissed. It is further ordered, adjudged, and decreed that the said complainant be taxed with all costs of this case, and that execution issue therefor.

And the said complainant, by its solicitor, having in open court prayed and demanded an appeal from the said judgment and
230 decree, the same is hereby granted upon the said complainant entering into bond and complying with the statute in such cases made and provided.

Ordered, adjudged, and decreed this 22d day of October, A. D. 1892.

CLAUDE PINTARD, *Chancellor.*

"*Appeal Bond.*"

And afterwards, to wit, on January 21st, A. D. 1893, the complainant in said cause filed an appeal bond, same being in the words and figures following, to wit:

THE STATE OF MISSISSIPPI, }
Adams County. }

Know all men by these presents that we, the Louisville, New Orleans and Texas Railway Company, William G. Yerger, Leroy Percy, and Audley C. Britton, are held and firmly bound unto James W. Lambert, sheriff and tax collector of Adams county, in the sum of six thousand dollars; for the payment for which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 31st day of January, A. D. 1893.

The condition of the above obligation is such that whereas on the 22nd day of October, 1892, a decree was rendered by the chancery court of Adams county, State aforesaid, in favor of said James W. Lambert, sheriff & tax collector of said county, for the sum

of twenty-eight hundred and eighty dollars, besides cost of suit, wherein the said Louisville, New Orleans & Texas Railway Company has prayed and obtained an appeal, operating as a supersedeas, returnable to the next term of the supreme court of the State aforesaid, now, if the said Louisville, New Orleans & Texas Railway Company shall prosecute *his* appeal with effect and shall well and truly pay and satisfy the judgment, damages, and costs in case said decree shall be affirmed, and shall also perform the sentence, judgment, or decree the supreme court shall award in the premises, then the above obligation to be void; otherwise to remain in full force and virtue.

THE LOUISVILLE, NEW ORLEANS & TEXAS RAILWAY COMPANY. [SEAL.]
By WILL T. MARTIN, *Agent & Attorney.*
WM. G. YERGER,
By WILL T. MARTIN, [SEAL.]
His Agent & Att'y-in-fact.
LEROY PERCY,
By WILL T. MARTIN, [SEAL.]
His Attorney & Agent-in-fact.
A. C. BRITTON. [SEAL.]

I hereby approve this bond this January 31st, 1893.

ALLISON H. FOSTER,
Chancery Clerk.

THE STATE OF MISSISSIPPI, *Adams County,* } ss:

I, Allison H. Foster, clerk of the chancery court of said county, do hereby certify that *that* the foregoing page and what precedes this certificate on this page contains and exhibits a true and perfect copy of the original appeal bond as the same was this day copied and compared with the said original bond, the said original bond being sent to the supreme court, at Jackson, Mississippi, with the transcript in cause No. 1174 on the general docket of my said court.

Witness my hand and the seal of said court, at the city of Natchez, this February 11th, A. D. 1893.

ALLISON H. FOSTER,
[SEAL.] *Clerk of the Chancery Court.*

"Agreement of Counsel."

STATE OF MISSISSIPPI, *County of Adams.*

In Chancery Court.

THE LOUISVILLE, NEW ORLEANS & TEXAS RAILWAY Company *vs.* JAMES W. LAMBERT, Sheriff & Tax Collector. } No. 1174.

The solicitors of record for complainants — defendant in this case agree that the complainant may now perfect an appeal to the March

term, 1893, of the supreme court of the State of Mississippi in said cause from the decree rendered therein by the Honorable
231 Claude Pintard, chancellor of the fourth chancery district of said State, sustaining the demurrer of the defendant to the bill of complaint therein and dismissing said bill of complaint, and may now file a transcript of the record in said cause in said supreme court on or before the first Monday in March, 1893.

K. PALMER LANNEAU,
Sol. for Def't.
YERGER & PERCY &
WILL T. MARTIN,
Sol's — Compl't.

Demurrer of Defendant.

And as to all the rest, residue, and remainder of the said bill of complaint other than those above answered by pleas, the said defendant says he does demur thereto, and for causes of demurrer shows the following, viz:

1. The said complainants have not in and by their said bill of complaint (as to said residue & remainder) made or stated such a case as doth or ought — entitle them to any such relief as is thereby sought and prayed against this defendant.

2. It appears by complainants' own showing in & by their said bill of complaint that they are not entitled to the relief prayed against this defendant.

3. The allegations of said bill do not show any valid or sufficient reason why said sheriff & tax collector should be restrained from proceeding to collect said taxes (of the year 1892) mentioned in said bill of complaint.

4. The allegations of said bill of — do not show that complainants or either of them are entitled to the so-called exemption from taxation alleged to have been granted to the said Natchez, Jackson and Columbus Railroad Company.

5. The said bill of complaint shows no cause or valid reasons why defendant, the sheriff & tax collector of Adams county, should have been or should be required to give to complainants or either of them a receipt for the said taxes of the year 1892.

K. PALMER LANNEAU,
Sol. for Def't.

I hereby certify that I believe the above — foregoing demurrer ought to be sustained.

K. PALMER LANNEAU,
Sol. for Def't.

And afterwards, to wit, on the 9th day of March, 1893, the complainants filed their demurrer to the plea of defendant in this cause, the same being in the words and figures following, to wit:

STATE OF MISSISSIPPI, }
Adams County. }

In Chancery Court, March Term, 1893.

THE NATCHEZ, JACKSON AND COLUMBUS RAILROAD COMPANY *et al.*
vs.
JAMES W. LAMBERT, Sh'ff & Tax Collector of Adams County, Mississippi. } 1207.

And now comes the complainants in the foregoing cause, and, as to the plea of *res adju-cata* by the defendant in the above cause pleaded, and which said plea was by the said defendant therein filed on the 6th day of March, 1893, say that said plea is not good and sufficient in law, therefore complainants do demur to said plea and pray the judgment of the court if they should make any further or other answer to said plea, and for cause of demurrer assigns the following, viz:

1. Because the above suit and that set forth and referred to in the plea of *res adju-cata* is between different parties.

2. Because said plea of *res adju-cata* shows that the Natchez, Jackson & Columbus Railroad Company and The Yazoo and Mississippi Valley Railroad Company, which said companies are complainants in the above cause, were not parties to the suit and decree referred to and set forth in said plea.

3. Because said plea of *res adju-cata* shows that the decree which the defendant seeks to plead and interpose as a bar to the right of action of complainants in this suit has been appealed from, and that said appeal is now pending in the supreme court of this State, and therefore is not now either operative or in force as a final decree standing unappealed from or unreversed.

4. Because the record referred to and set forth in said plea of *res adju-cata* shows that an appeal, operating as a supersedeas, from the decree which defendant seeks to plead in bar of the action of complainants herein has been granted, and that said appeal is now pending in the supreme court of this State, which complain-
232 ants say renders said decree at this time inoperative as a final decree and as a bar to their right of action herein.

5. Because the plea of *res adju-cata* does not sufficiently set forth the pleadings and decree in the cause therein referred to as No. 1174 to enable the court to determine from the record what was the cause of action therein or on what issue or merits the controversy between the parties thereto was determined.

6. Because the facts as set forth in said plea of *res adju-cata* are not sufficient to constitute a legal bar to the action — complainant-in the above suit or any part of said action.

7. Because the facts and decree as set out in said plea of *res adju-cata* are not sufficient to constitute a bar to the right of action of the complainants herein.

WILL T. MARTIN &
YERGER & PERCY,
Sols. for Compl'g.

I hereby certify that I believe that the foregoing demurrer ought to be sustained.

WM. G. YERGER,
Sols. for Compl'ts.

And afterwards, to wit, on the 10 day of March, 1893, the following order was *taken* granted by the court, striking from the files of this cause the demurrer of the complainants to the plea of the defendant, said order being in the words and figures following, to wit:

NATCHEZ, JACKSON & COLUMBUS RAILWAY COMPANY *et al.*
vs.
JAMES W. LAMBERT, Tax Collector, Sheriff, &c. } No. 1207.

This cause coming on for hearing on motion by defendant to strike from the files of said cause the demurrer of complainants, filed March 9th, 1893, to defendant's plea & to require said complainants forthwith to set down said plea for *agreement* upon its sufficiency in law or to reply to same, the court, after hearing argument & upon due consideration of said motion, doth order that the said motion be, and the same is hereby, sustained, and the said demurrer is hereby ordered to be stricken from the said files; whereupon said complainants forthwith filed their certain replication to said plea.

Ordered & decreed the 10 day of March, 1893.

CLAUDE PINTARD, *Chancellor.*

And on the same day, March 10th, 1893, the complainants filed their replication to defendant's plea in said cause, same being in the words and figures following, to wit:

STATE OF MISSISSIPPI,
Adams County.

In Chancery Court, M-rch Term, 1893.

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY *et al.*
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector. } 1207.

And now comes the complainants in the above cause, and to the plea of *res adju-cata* of the said defendant by him therein pleaded say that the said complainants, by reason of anything by him, the said defendant, in said plea alleged and pleaded, ought not to be barred from having and maintaining their aforesaid action against the said defendant, because they say there is no record of the said supposed recovery and decree in the said plea mentioned remaining in its chancery court of the county of Adams, of the State aforesaid, in manner, form, and of the effect, because
233 the decree rendered *was* set forth in said plea has been appealed from and said decree has been fully and entirely su-

perseded, and which said appeal and supersedeas, as aforesaid, are now pending in the supreme court of the State, and said decree is not now operat-e and in force against complainants.

And this complainants *is* ready to verify. Wherefore, &c.

WILL T. MARTIN &
YERGER & PERCY,
Sols. for Complainants.

And afterwards, to wit, on the 14th day of March, 1893, the following decree was taken and entered on the minutes of said court, and being in the words and figures following, to wit:

NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY *et al.*, Complainants,
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector, Defendant.
No. 1207.

This cause coming *in* for hearing upon the plea of said defendant to a part of the bill of complaint, said plea having been filed on the 6th day of March, A. D. 1893, and on the replication of said complainants to said plea, said replication having been filed March 10th, 1893, and the issues joined by said plea & said replication having been tried on the evidence submitted to the court, viz., the pleadings, exhibits, orders, proceedings, & records on file in this court in that certain cause entitled The Louisville, New Orleans & Texas Railway Company *vs.* James W. Lambert, sheriff & tax collector of Adams county, Mississippi, & numbered 1174 on the general docket of this court, after and examination of said pleadings, exhibits, orders, proceedings, & record in said cause 1174 so offered in evidence upon the issues joined by said plea & said replication & finds for the defendant; whereupon it is considered *qy* the court and so ordered, adjudged, and decreed that the present cause now pending in this court and numbered No. 1207 on the general docket of this court do abate, & the same is hereby abated, as *yo* so much and such parts of the complaint and demand *and* complainants herein as seek to bring into question the right of said defendant, the said sheriff & tax collector of Adams county, to collect the taxes for the year 1891 on the property mentioned

[Illegible in copy.]

said bill of complaint in and by the *pa*ryer thereof seek to raise

[Illegible in copy.]

plainants a receipt therefor or in any manner asks or seeks relief as to said taxes for said year 1891, and that as to all such parts of said bill & the prayer thereof said defendant be, and he is hereby, discharged and relieved from making any other or further answer thereto than that which is set up in & by his said plea.

Ordered, adjudged, and decreed the 10th day of March, 1893.

CLAUDE PINTARD, *Chancellor.*

And afterwards, to wit, on the 25th day of March, 1893, the final decree in said cause was taken and entered on the minutes of said chancery court, same being in the words and figures following, to wit:

THE NATCHEZ, JACKSON & COLUMBUS RAILROAD COMPANY *et al.*
vs.
JAMES W. LAMBERT, Sheriff & Tax Collector. } No. 1207.

This cause coming in to be heard upon the bill of complaint of complainants, tye exhibits thereto, and the demurrer of defendant to a part of said bill, being to so much and such parts of said bill as questioned or denied the right and authority of said defendant, sheriff & tax collector of Adams county, to collect
234 the State and county taxes on the complainants' property in Adams county, described in said bill, for the year 1892, and sought to restrain and enjoin said sheriff & tax collector from collecting said taxes due for said year 1892, the court, after hearing argument thereon and after maturely considering the same, being now fully advised in the premises, doth consider and so order, adjudge, and decree that said demurrer be, and the same is hereby, sustained, and this cause and suit as to all the rest, residue, and remainder of said bill of complaint & cause (being such part and portions of said bill and the prayer thereof as sought to bring into question or deny the right and authority of said sheriff & tax collector to collect the said State and county taxes thereon for the year 1891, and to restrain and enjoin said sheriff & tax collector from collecting said taxes for the year 1892) having been abated by the decree of this court rendered in this cause on the 10th day of March, A. D. 1893, and, upon the sustaining of said demurrer, said complainants not offering or desiring to amend their said bill of complaint, it is now thereupon further considered and so ordered, adjudged, and decreed that *that* the injunction heretofore granted in this cause be, and the same is hereby, wholly dissolved, and that the said bill of complaint be, and the same is hereby, dismissed.

It is further ordered, adjudged, and decreed that the said James W. Lambert, sheriff & tax collector, do have and recover of and from the said Natchez, Jackson & Columbus Railroad Company and the said Yazoo & Mississippi Valley Railroad Company, the complainants herein, and Leroy Percy and the Merchants' and Planters' bank, their injunction bond herein, the sum of twenty-four hundred and forty-three $\frac{26}{100}$ dollars ($2,243.26), being the aggregate sum of the following sums, to wit: State and county taxes on said property for the year 1892, $2,221.15, 10% of said amount being the statutory damages of said taxes, $222.11; and also all costs herein accrued and to be taxed, and that execution issue therefor according to the statute.

Whereupon the said complainants, by their solicitors, prayed and appealed both from the said decree abating said cause and suit as to the said taxes for the year 1891 and the said decree sustaining said

demurrer, dissolved the injunction, and dismissing said bill of complaint, returnable to the supreme court of this State on the 3rd Monday in April, 1893, which was granted, the same to operate as a supersedeas, upon said complainants giving bond in the sum of forty-eight hundred and eighty-six $\frac{52}{100}$ dollars ($4,886.52), to be approved by the clerk in vacation, the said bond to be payable to the State of Mississippi and conditioned according to law.

Ordered, adjudged, and decreed this 23rd day of March, 1893.

CLAUDE PINTARD, *Chancellor.*

Certificate of Clerk.

STATE OF MISSISSIPPI, *Adams County,* } *ss:*

I, Allison H. Foster, clerk of the chancery court of said county, do hereby certify that the foregoing one hundred and eighteen (118) pages contain and exhibit a true and perfect copy of the original and amended bill, with fiat of the judge, injunction bond, summons, writ of injunction, with all the exhibits, pleadings, proofs, orders, agreements, and the decree appealed from in cause No. 1207 on the general docket of the chancery court of Adams county, as the same now appears on file or of record in my office.

In witness whereof I have hereunto set my hand and the seal of said court this the 7th day of April, A. D. 1893.

A. H. FOSTER, *Clk.*

235 *Bill of Costs.*

Clerk Foster:

Making transcript	31.25
Certificate	50
Issuing summons	75
Making copy appeal bond	1.00
Cash advanced to bond transcript	60
	34.10
	2.00
Total costs	36.10

Correct, E. & O. E.
Attest: ALLISON H. FOSTER,
Chancery Clerk.

Natchez, Miss., April 17th, 189–.

Know all men by these presents that we, the Natchez, Jackson & Columbus Railroad Company and the Yazoo & Mississippi Valley Railroad Company, as principals, and the Merchants' and Planters' Bank of Greenville, Miss., Leroy Percy, and William G. Yerger, as sureties, are held and firmly bound unto the State of Mississippi in the penal sum of eleven thousand two hundred twenty-two &

$\frac{50}{100}$ dollars; to the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, assigns, and successors.

Signed and dated this 26th day of March, 1893.

The condition of the above obligation *is* such that whereas on the 24th day of March, 1893, there was rendered by the chancery court of Adams county, Mississippi, a decree sustaining the demurrer of the defendant therein and dismissing the bill of complaint in the suit of The Natchez, Jackson & Columbus Railroad Company and The Yazoo & Mississippi Valley Railroad Company against James W. Lambert, sheriff & tax collector of Adams county, Mississippi, and numbered on the dockets of the chancery court of Adams county No. 1207, and from which said decree the complainants in said cause, the above-bound Natchez, Jackson & Columbus Railroad Company, have prayed an appeal to the supreme court of the State of Mississippi, and which said appeal they asked to operate as a supersedeas of said decree sustaining said demurrer and dismissing said bill, as aforesaid, and which said appeal, and to operate as a supersedeas, as aforesaid, has been granted upon the execution of this bond:

Now, if the Natchez, Jackson & Columbus Railroad Company and the Yazoo & Mississippi Valley Railroad Company will satisfy the decree complained of and appealed from, as aforesaid, and also such final judgment as may be made in the above cause and all costs therein if the decree appealed from be affirmed, then this obligation shall be void; otherwise to remain in full force and effect.

NATCHEZ, JACKSON & COLUMBUS
RAILROAD COMPANY,
By YERGER & PERCY, *Att'y.*
YAZOO & MISSISSIPPI VALLEY
RAILROAD COMPANY,
By YERGER & PERCY, *Att'y.*
WM. G. YERGER.
LEROY PERCY.
MERCHANTS' & PLANTERS' BANK
OF GREENVILLE, MISS.,
By J. S. WALKER, *President.*

I, C. M. Johnson, clerk of the chancery court of Washington county, Mississippi, do hereby certify that the Merchants' & Planters' Bank of Greenville, Miss., Leroy Percy and Wm. G. Yerger, sureties on the foregoing bond, are all freeholders of the county and State aforesaid, are solvent, and are good and sufficient as sureties on the aforesaid bond.

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Given under my hand and official seal this 29th day of March, 1893.

C. M. JOHNSON, *Ch'y Clerk.*

I hereby approve the foregoing appeal bond this March 30th, A. D 1893.

ALLISON H. FOSTER,
Chancery Clerk, Adams County, Mississippi.

The State of Mississippi to the coroner of Adams county, in said State :

—— ——, sheriff & tax collector of Adams county, Miss. (or K. Palmer Lanneau, his attorney of record), appellee, or his attorney in *the* fact or of record, if to be found in your county, to appear before the supreme court of the State of Mississippi, at the capital of the city of Jackson, in the county of Hinds and State aforesaid, on the 17th day of April, A. D. 1893, then and there to answer the appeal of The Natchez, Jackson & Columbus Railroad Company *et al.* from a decree of the chancery court of the county of Adams, in said State, rendered against said appellant on the — day of March, A. D. 1893, at the March term, A. D. 1893, of said chancery court in favor of said appellee, for sustaining the demurrer of appellee, &c., to appellant-' bill of complaint, No. 1207 on the general docket of the said Adams county chancery court and dismissing appellants' said bill of complaint ; and have there then this writ.

Given under my hand and the seal of said chancery court, at my office, in Natchez, Miss., and issued this 30th day of April, A. D. 1893.

ALLISON H. FOSTER,
Chancery Clerk.

237 *Replication to Plea. Filed June* 24, 1899.

In the Circuit Court of Hinds County, First District, State of Mississippi.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY *et al.* } No. 3267.

And comes the plaintiff, by attorney, and for replication to the plea filed herein under *respo-deat ouster* on June 24, 1899, by leave of court first had and obtained, *and* says :

1. He denies that in and during the year 1898 the said Yazoo & Mississippi Valley Railroad Company did pay said taxes sued for to the full extent thereof by the payment actually and in good faith of debts and liabilities which said Natchez, Jackson & Columbus Railroad Company had incurred in the construction of said road and so used and in payment of money borrowed by said Natchez, Jackson & Columbus Railroad Company in such construction, pursuant to said section 21 of the act incorporating the Mobile & Northwestern Railroad Company extended to Natchez, Jackson & Columbus Railroad Company by said act approved August 8th, 1870 ; and of this he puts himself upon the country, and the defendant doth the like.

2. Plaintiff denies that defendant did in due and proper time deliver or tender to the tax collector of each and every of said counties the affidavit required by said section 21, and that said tax collectors gave the defendant a receipt in full for the amount of said taxes

respectively, and that the profits of said Natchez, Jackson & Columbus Railroad Company and its assigns and successors, the Louisville, New Orleans & Texas Railway Company and Yazoo & Mississippi Valley Railroad Company, on the line of railroad that was of said Natchez, Jackson & Columbus Railroad Company have not enabled it to declare and pay an annual dividend of eight per cent.
238 on its capital stock over and above the payment of its debts and liabilities mentioned in said section 21, or that the profits of said defendant have not enabled it to declare and pay said dividend; and of this the plaintiff puts himself upon the country, and the defendant doth the like.

3. Plaintiff avers that prior to February 1, 1898, and the making of said assessment for the year 1898, the Louisville, New Orleans & Texas Railway Company had paid off and discharged all the alleged debts and liabilities which said Natchez, Jackson & Columbus Railroad Company had incurred in the construction of its road or for money borrowed by said Natchez, Jackson & Columbus Railroad Company upon lands or otherwise in constructing said road or paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same, in that, as alleged, the said Louisville, New Orleans & Texas Railway Company purchased in 1890, in fee, said Natchez, Jackson & Columbus Railroad Company, with all of its rights, franchises, powers, and privileges, and thereafter and prior to October 24, 1892, said Louisville, New Orleans & Texas Railway Company purchased from the holders thereof and became the owners of all of the outstanding bonds of Natchez, Jackson & Columbus Railroad Company and embracing all the debts of Natchez, Jackson & Columbus Railroad Company, described in said section 21, which said bonds were secured by a first mortgage upon said Natchez, Jackson & Columbus Railroad Company, its franchised, rights, powers, and privileges, and thereby said mortgage and the bonds it secured became and were paid off and discharged, and that the profits of said defendant on the former railroad property and franchises and privileges of the Natchez, Jackson & Columbus Railroad Company for said year 1898 were more than sufficient to declare and pay an annual dividend of 8 % upon the proper capital stock of said Natchez, Jackson & Columbus Railroad Company, and thereby said alleged appropriation of taxes ceased and said property became and is liable to taxation; and this he is ready to verify.

4. Plaintiff avers that on December 7th, 1893, the plaintiff
239 brought suit in this court against the defendant for the State, county, and municipal taxes of 1892 on the property in the year 1892 belonging to Louisville, New Orleans & Texas Railway Company, and on December the 18th, 1894, plaintiff brought another suit against defendant for the State, county, and municipal taxes on said property for the year 1893 and 1894, and on January 1st, 1896, plaintiff brought another suit for the State, county, and municipal taxes on said property for the year 1895, all of said suits being in this court; that on January 26th, 1895, said three cases were consolidated and proceeded with under the name and number of the first of said causes, No. 2788; that in and by the

pleadings therein were raised various questions, among others, as to whether said alleged exemption or appropriation under said section 21 was not unconstitutional and void under the constitution of 1869, and whether it was not prevented from passing into said consolidation of Oct. 24, 1892, by the constitution of 1900, No. 180, and whether it was not lost by the consolidation of Oct. 24, 1892, and whether said consolidation under Ex. A to plea did not form a new company, and whether said alleged exemption was not repealed by the laws of 1886 and 1890 and the code of 1892; that said cause was tried in this court on July 25th, 1896, and resulted in a verdict and judgment in favor of plaintiff for the said taxes of 1895 and in favor of the defendant for the years 1892, 1893, and 1894, from which judgment an appeal was taken by plaintiff and a cross-appeal by defendant to the supreme court of the State of Mississippi, and in said supreme court such further proceedings were had that on June 20, 1898, the said supreme court reversed said judgment both on appeal and cross-appeal on account of the compromise verdict, whereby the jury split their verdict for said years on substantially the same evidence, and remanded the said cause, and in said decision on said appeal and cross-appeal the said supreme court did decide all of said questions so necessarily involved in and raised by the pleadings in said case in favor of the plaintiff, and such
240 further proceedings were had in this court after mandate filed that on July 8, 1898, a final judgment *nil dicit* was rendered in favor of the plaintiff; that defendant appealed from this last judgment to the supreme court of the State of Mississippi, and such proceedings were had in said supreme court that on February 20, 1899, said judgment appealed from was affirmed.

Plaintiff avers that said questions were involved in the decisions and determination of said cause and were in issue and actually litigated therein and were actually decided adversely to the defendant; that the parties to said suit were plaintiff and defendant, and that the same identical questions are involved in this suit, and that said decision is fatal to the claim set up by defendant in this suit, and the plaintiff now makes said record and said proceedings in this court and in the supreme court a part of this replication and avers that the same is *res adju cata*, and that said questions have been by said judgments conclusively settled against defendant; and this he is ready to verify by the record, &c.

5. And for further replication plaintiff says that, as by law required, the defendant, on, to wit, April 16th, 1898, made its certain schedule under No. 3875, Code 1892, of the property and franchise of the property assessed for taxation herein to the State railroad assessors of the State of Mississippi for the purposes of assessments for taxation for the year 1898, and in and by said schedule defendant returned that as to the capital stock of the Natchez, Jackson & Columbus divisions of defendant that the said capital stock was included in the return made by defendant of its schedule on the main line, and that the par value of stock and the actual value of stock of said Natchez, Jackson & Columbus division, being the part of said defendant's railroad formerly belonging to Natchez, Jackson &

Columbus Railroad Company, was included in return of main line, and that the gross receipts last year on 98.318 miles R. R. was $227,793.15.

Gross receipts from freight last year, $159,318.08.

241 Gross receipts from passengers last year, $47,595.87.

Gross receipts earned in Mississippi, $227,793.16; and in response to the interrogatory on said schedule, State separately what property is claimed to be exempt from taxation and cite law authorizing exemptions, defendant answered: The Yazoo & Mississippi Valley Railroad Company, as successors of the Louisville, New Orleans & Texas R'y Co., claims exemption from taxation on the above-described property under sundry acts of the legislature of the State of Mississippi. Charter of Natchez and Jackson Railroad Company, act of July 21, 1890; provisions of section 1 of an act entitled "An act supplemental to an act entitled An act supplemental to the acts of incorporation of certain railroad companies, approved March 5, 1878; Acts of 1878, p. 233.

Charter of New Orleans, Baton Rouge, Vicksburg & Memphis R. R. Co., sec. 25, Acts 1882, p. 920.

Authority to sell or consolidate N., J. & C. R. R. Co., act of Feb. 19, 1890.

Sale under act of Feb. 19, 1890, of N., J. & C. R. R. Co. to *L.*, N. O. & T. R'y Co., March 28, 1890.

And the said railroad assessors, having jurisdiction of the person of defendant and of the subject-matter, did, by its judgment, reject and disallow the alleged exemption from taxation of the said property and franchises, and did, at the time and place prescribed by law, notwithstanding the claim of exemption made by defendant, assess the property and franchises for taxation, State, county, and municipal, for the year 1898, and said assessment and the judgment of said State railroad assessors in making the same stands in full force, unappealed from, and unreversed; and plaintiff avers that the judgment of said State railroad assessors making said assessment is *res adju-cata* of the question of the exemption of defendant

242 from taxation for said taxes for the year 1898, and this he is ready to verify by the record.

Wherefore he prays judgment by the court.

CRITZ, BECKETT & KIMBROUGH,
CALHOON & GREEN, *P. D.*

STATE OF MISSISSIPPI, }
Hinds County. }

Personally appeared before me the within-named Wirt Adams, who, being by me first duly sworn, on oath states, in support of his application to file the several replications hereto attached, that he is advised and believes that he has just ground to traverse the several matters proposed to be traversed by him, and that the several matters sought to be pleaded by way of confession and avoidance are respectively true in substance and in fact.

——, ——.

Sworn to and subscribed before me this — day of June, 1899.

——, ——.

It is agreed that Wirt Adams would swear to above affidavit if present, and that it may be considered as sworn to by him, and that the said replications may be permitted to be filed and order made accordingly.

MAYES & HARRIS,
Attorneys for Defendant.

Endorsed: Filed by order of court July 3rd, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

243 EXHIBIT TO REPLICATION.

RECORD OF RAILROAD ASSESSORS.

Assessment of the Natchez & Jackson Division, Yazoo & Mississippi Valley Railroad Company, for the Year 1898.

STATE OF ILLINOIS, }
County of Cook, } *ss:*

I, J. C. Welling, vice-president of the Yazoo & Mississippi Valley Railroad Company, do hereby solemnly swear that the schedules hereto attached are full, true, and correct, to the best of my knowledge and belief.

J. C. WELLING,
Vice-President Yazoo & Mississippi Valley Railroad Company.

Subscribed and sworn to before me this 16th day of April, 1898.

JULIUS L. RINNE,
Notary Public.

Valuation Per Mile of Main Track, Franchises, and Rolling Stock.

Valuation by company, $4,000; $480 rolling stock.....	4,480
Valuation by commission	
Valuation by commission after objection heard.....	$9,000

Valuation Per Mile of Side Track.

Valuation by company.....	$1,500	$2,250
Valuation by commission		
Valuation by commission after objection heard		

Total capital stock included in return of main line...	
Par value of stock do. ...	
Actual value of stock do. ...	
Gross receipts last year on 98.318 miles R. R.....	227,793.15
Gross receipts from freight last year....	$159,318.08
Gross receipts from passengers last year	47,595.87
Gross receipts earned in Mississippi.....	227,793.15

State separately what property is claimed to be exempt from taxation and cite law authorizing exemptions.

The Yazoo & Mississippi Valley Railroad Company, as the successors of the Louisville, New Orleans & Texas Railroad Company, claims exemption from taxation of the above-described property under sundry acts of the legislature of the State of Mississippi.

Charter of the Natchez, Jackson & Columbus Railroad Company, act of July 21, 1870.

Provisions of section 1 of an act entitled "An act supplemental to an act entitled An act supplemental to the acts of incorporation of certain railroad companies," approved March 5, 1878; Acts of 1878, p. 233.

244 Charter of New Orleans, Baton Rouge, Vicksburg & Memphis R'y Co., sec. 25, Acts of 1882, page 920.

Authority to sell or consolidate N., J. & C. R. R. Co., act of Feb. 19, 1890.

Sale under act of Feb'y 19, 1890, of N., J. & C. to L., N. O. & T. R. R. Co., March 28th, 1890.

Natchez & Jackson.

Recapitulation for the Year 1898.

County.	Mileage.	Valuation by company.	Valuation by commission.	Valuation by commission after objection heard.
Adams.....	13.356	65,934		
Claiborne....	18.709	77,373		
Copiah.....	4.078	17,391		
Hinds.....	36.803	151,478		
Jefferson.. ..	25.372	106,545		
	98.318	418,721		
Proportion of rolling stock		47,217		
Total		465,938		

245 *Order to File Replication.*

June Term, 1899.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY R. R. CO. ET AL. } 3267.

JULY 5, 1899.

Upon application by the plaintiff and the presentation of the several replications to the plea filed herein June 24, 1899, under respondeat-ouster, duly verified by affidavit, as required by law, leave is granted to file said several replications to said plea; this order to be entered as of July 3rd, 1899.

Rejoinder.

STATE OF MISSISSIPPI,
County of Hinds, First District.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS. } No. 3267.

Comes the defendant The Yazoo & Mississippi Valley Railroad Company in the above-entitled cause, by its attorneys, and for rejoinder to the third replication of the said plaintiff says that it denies that prior to Feb. 1, 1898, and the making of said assessment for the year 1898 the Louisville, New Orleans & Texas Railway Company had paid off and discharged all of the alleged debts and liabilities which said Natchez, Jackson & Columbus Railroad Company had incurred in the construction of its road or for money borrowed by said Natchez, Jackson & Columbus Railroad Company upon lands or otherwise in constructing said road or paying debts incurred by said Natchez, Jackson & Columbus Railroad Company in constructing the same in manner and form as the same is alleged in said replication or otherwise; and of this the said defendant puts itself upon the country.

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MAYES & HARRIS,
Attorneys for the Y. & M. V. R. R. C.

Endorsed: Filed July 3rd, 1898. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Demurrer to 4th Replication.

STATE OF MISSISSIPPI,
County of Hinds.

On the Circuit Court, First District.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS. } No. 3267.

Comes the defendant herein The Yazoo & Mississippi Valley Railroad Company, by their attorneys, and for answer to the 4th replication of the plaintiff herein to the second plea of the said defendants herein they demur to the same, and for cause of demurrer assign as follows, to wit:

1. That the replication is insufficient in law.
2. That the said replication does not show any *res adju-cata*, as it professes to do.

Wherefore the defendants pray judgment, etc.

MAYES & HARRIS,
Att'ys for Y. & M. V. R. R. Co.

Endorsed: Filed July 3, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Demurrer to 5th Replication.

STATE OF MISSISSIPPI,
County of Hinds.

In the Circuit Court, First District.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY *et als.* } No. 3267.

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Comes the defendant- The Yazoo & Mississippi Railroad Company, by their attorneys, and for answer to the fifth replication of the plaintiff herein to the second plea of the said defendant herein they demur to the same, and for cause *for* demurrer assign as follows, to wit:

1. That the replication is insufficient in law.
2. That the said replication does not show any *res adju-cata*, as it professes to do.

Wherefore the defendant prays judgment, etc.

MAYES & HARRIS,
Att'ys for Y. & M. V. R. R. Co.

Endorsed: Filed July 3rd, 1899. F. B. Neal, clerk, by W. J Brown, D. C.

Replication to Third Plea.

In the Circuit Court of Hinds County, First District, State of Mississippi.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY *et als.* } No. 3267.

Comes the plaintiff, by attorney, and for replication *of* defendants' third plea says *precludi non*, because he says plaintiff denies that in said suit of Yazoo & Mississippi Valley Railroad Company *et als. vs.* Lambert and in said litigation and on appeal to the supreme court therein the same identical questions and points raised in this suit were involved and were presented and decided as to the effect of said alleged merger of October 24, 1892, between Louisville, New Orleans & Texas Railway Company & Yazoo & Mississippi Valley Railroad Company. Plaintiff denies that —

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said litigation and adjudication the State of Mississippi was a party, and that said State was represented by said sheriff and tax collector, and that said sheriff and tax collector had any authority to represent said State of Mississippi and to recover taxes by suit.

Plaintiff denies that said decision and judgment was and is *res adju-cata* as against the State and all of its municipal subdivisions in question of taxation as to the constitutionality of said section five of the act of 1882 (section 21 aforesaid), and as to the effect of said alleged merger and of the effect of said alleged merger of 1892 under the constitution of 1890.

Plaintiff avers that on December 7th, 1893, the plaintiff brought suit in this court against defendant The Yazoo & Mississippi Valley Railroad Company for the State, county, and municipal taxes of 1892 on the railroad property in the year 1892 belonging to Louisville, New Orleans & Texas Railway Company, and on December 18th, 1894, plaintiff brought another suit against defendant Yazoo & Mississippi Valley Railroad Company for the State, county, and municipal taxes on said railroad property for the years 1893 and 1894, and on January 1st, 1896, plaintiff brought another suit for the State, county, and municipal taxes on said railroad property for the year 1895, all of said suits being in this court; that on January 26, 1895, said three cases were consolidated and proceeded with under the name and style of the first of said causes, number 2788; that these consolidated suits are the same identical suit recited in said third plea as styled "Adams, State revenue agent, *vs.* The Yazoo & Mississippi Valley Railroad Company;" that in and by the pleadings therein were raised and decided various questions, among others as to whether said alleged exemption or appropriation under said section 21 was not unconstitutional and void under the constitution of 1869 of the State of Mississippi, and whether it was not presented from passing into said consolidation of Oct. 24, 1892, by sec. 180 of the constitution of the State of Mississippi of 1890, and whether it was not lost by the consolidation, alleged to be a merger,
249 of Oct. 24, 1892, and whether said consolidation, under Exhibit A to the plea, did not form a new company, and whether said alleged exemption was not repealed by the acts of 1886 and 1890 and the code of 1892; that said consolidated cause was tried in favor of plaintiff for the taxes for the year 1895 and in favor of the defendant for the taxes for the year- 1892, 1893, and 1894, from which judgment plaintiff appealed and defendant cross-appealed to the supreme court of the State of Mississippi, and in said supreme court such further proceedings were had that on June 20th, 1898, the said supreme court reversed said judgment, both on appeal and cross-appeal, because of a compromise verdict whereby the jury split their verdict for said years on substantially the same evidence, and said cause was remanded to this court, and on said appeal and cross-appeal said supreme court did decide all of said questions so necessarily involved in and raised by the pleadings in said cause in favor of plaintiff, and, as averred in said third plea, said supreme court decided that the said alleged merger of Oct. 24th, 1892, did form a new company and did cause the loss of said privilege under section 21, and also said supreme court decided upon issues raised therein that the said section 21 was void under the constitution of the State of Mississippi of 1869, and that said section 21 was repealed by the act of 1886 and by the act of 1890 and by the code of 1892; that in said last-

named consolidated cause, upon remand to this court, such further proceedings were had, after mandate filed, that on July 8, 1898, a final judgment *nil dicit* was rendered in favor of the plaintiff; that plaintiff appealed from said last judgment, and such proceedings were had in said supreme court that on February 20, 1899, said judgment appealed from was affirmed. Plaintiff avers that said questions were involved in the decision and determination of said cause, and were in issue and actually litigated therein, and were actually decided adversely to the defendant; that the parties to said suit were plaintiff and defendant Yazoo & Mississippi Valley Railroad Company, and that the same identical questions so
250 decided adversely to defendant are involved in this suit.

Plaintiff avers that the said defendant did not plead or give in evidence in said last-named suit the alleged judgments in said suits in said cases of Yazoo & Mississippi Valley Railroad Company and Natchez, Jackson & Columbus Railroad Company against said Lambert, as *res adju-cata* or otherwise of the said questions therein involved and decided, and defendant Yazoo & Mississippi Valley Railroad Company is now precluded from setting up the said judgments or decrees in said Lambert cases as *res adju-cata* or otherwise to defeat the subsequent adjudication of said questions in said consolidated cause; that the judgment in said consolidated cause is still in full force and effect unreversed. Plaintiff avers that the said decision of said questions in said consolidated cause is fatal to the claim set up by defendant in said third plea, and the plaintiff now makes said record and proceedings in said consolidated cause a part of this replication, and avers that the same is *res adju cata*, and that thereby said questions have been conclusively settled against the claim of defendant; and this he is ready to verify.

CRITZ, BECKETT & KIMBROUGH,
CALHOON & GREEN, *P. Q.*

Endorsed: Filed July 5th, 1899. F. B. Neal, clerk.

251 *Demurrer to Replication to 3rd Plea and to 4th & 5th Replication to 2nd Plea.*

STATE OF MISSISSIPPI, }
County of Hinds. }

In the Circuit Court, First District.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY *et als.* } No. 3267.

Comes the defendant herein, The Yazoo & Mississippi Valley Railroad Company, by its attorneys, and, for answer to the fourth and fifth replications to the second plea and to the replications *to* the plaintiff herein to the third plea of the said defendants herein,

they demur- to the same severally, and for cause of demurrer assigns as follows, to wit:

1. That the replication is insufficient in law.

2. That the said replication does not show any *res adju-cata* as it professes to do.

Wherefore the defendant prays judgment, etc.

MAYES & HARRIS,
Att'ys for I. C. R. R. Co. and Y. & M. V. R. R. Co.

Endorsed: Filed July 8, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

252 *Judgment Overruling Demurrers to Replication.*

June Term, 1899.

JULY 8, 1899.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS. } 3267.

This day came on to be heard the demurrers of defendant Yazoo & Mississippi Valley Railroad Company to plaintiff's 4th replication to the amended or 2nd plea, and the demurrer of said defendant to the plaintiff's 5th replication to said amended or 2nd plea, and the demurrer of said defendant to the replication to the 3rd plea, and, the court having considered the same, it is ordered and adjudged that each and every of said demurrers be, and the same are hereby, overruled, and leave given to said defendant to answer over.

Rejoinder to 4th Replication to 2nd Plea.

STATE OF MISSISSIPPI,
County of Hinds, First District.

In the Circuit Court, at June Term, 1899.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS. } 3267.

Comes the said defendant, The Yazoo & Mississippi Valley Railroad Co., by *their* attorneys, and for a further rejoinder to the fourth replication of the plaintiff to the second plea of the defendants herein *they* say-:

The Natchez & Jackson Railroad Company was incorporated by the legislature of the State of Mississippi by an act entitled "An act to incorporate the Natchez & Jackson Railroad Company," approved July 21, 1870—

The name of said company being subsequently by legislative authority changed to the Natchez, Jackson & Columbus Railroad Company, an- afterwards, on the 8th day of August, 1870, by an

act of the legislature entitled "An act supplemental to the act of incorporation of certain railroad companies," approved Aug. 8,
253 1870, the provisions of the twenty-first section of an act entitled "An act to incorporate the Mobile & North Western Railroad Company," approved July 20, 1870, were extended to the said Natchez, Jackson & Columbus Railroad Company as a part of its charter.

In March of the year 1890, by authority of an act of the legislature passed in that year to that end, the said Natchez, Jackson & Columbus Railroad Company sold and conveyed all its railroad and railroad property to the said Louisville, New Orleans & Texas Railway Company, with the said provision of section 21 aforesaid thereunto appertaining.

Afterwards, to wit, in January, 1893, one Lambert, sheriff and tax collector of Adams county, in said State, undertook to collect taxes, both privilege and valorem, for the years 1891 and 1892 on such railroad property in Adams county, notwithstanding the fact, which was a fact, that the legislature of the State of Mississippi had, by the act approved Aug. 8, 1870, and entitled "An act supplemental to the acts of incorporation of certain railroad companies," extended to the said Natchez, Jackson & Columbus Railroad Company the full privilege of the section numbered twenty-one of the act of July 20, 1870, entitled "An act to incorporate the Mobile & North Western Railroad Company," and said privilege had, by said act of 1890 and the said sale thereunder, passed with said railroad to said Louisville, New Orleans & Texas Railway Company, and by said merger of 1892 to the said defendant, The Yazoo & Mississippi Valley Railroad Company.

Thereupon the defendant The Yazoo & Mississippi Valley Railroad Company and the said Natchez, Jackson & Columbus Railroad Company filed in the chancery court of Adams county their two bills in chancery uniting in the same, in one of *ahi*ch they enjoined the sheriff from collecting the said privilege taxes, and in the other they enjoined him from collecting the said ad valorem taxes; said bills, amongst other things, set up the facts herein stated and set up and insisted upon the identical deed for merger, and exhibited the same therewith, which is set up and exhibited with this plea. The sheriff demurred to said bills, from which judgment this defendant, The Yazoo & Mississippi Valley Railroad Company,
254 and the said Natchez, Jackson & Columbus Railroad Company prosecuted their appeals to the supreme court of said State. On said appeals the State of Mississippi appeared formally, and was represented by the Hon. Frank Johnston, the attorney general of the State, who took charge of the case and argued the same both orally and by written brief. In said litigation in said appeal the same identical questions and points raised herein were involved and were presented and decided as to the effect of said merger of October 24, 1892, between the said Louisville, New Orleans & Texas Railway Company and the Yazoo & Mississippi Valley Railroad Company. It was contended that, as to the said taxes of both 1891 and 1892, the privilege of said section twenty-one

had been lost by the said sale of 1890, and even if not so, so far as the taxes for 1892 were concerned, the said privilege was lost by the said merger of 1892; that such merger created a new corporation, which, being created under the constitution of 1890, became subject to its provisions about taxation of corporate property, and could not take the said privilege, and in such cases the said supreme court adjudged and finally decided that the said deed and merger of 1892 did operate only by way of merger, and that the existence of the original Yazoo & Mississippi Valley Railroad Company of 1882 was not extinguished thereby, and that no new company was formed therein, and that the same was not in any way affected by the new constitution of 1890, and that the said privilege was not lost thereby. To said litigation and adju-cation the said State of Mississippi was a party, being represented in the first instance by its duly authorized officer, the sheriff and tax collector, who was by law authorized to recover taxes by suit, and in the said supreme court by the attorney general who appeared for the State avowedly, and this defendant, The Yazoo & Mississippi Valley Railroad Company, being one of the two litigants adverse to the State, the other said railroad company being in fact only a formal party to cover a doubt *to* entertained as to which company was the proper
255 one to tender the statutory affidavits under said section twenty-one. Said decision and judgment was rendered in March, 1893, and was and is *res adju-cata* as against said State and all of its municipal subdivisions in questions of taxation, first as to the constitutionality of the said section five of the act of 1892 (section 21 aforesaid); and secondly, as to the effect of said merger; and thirdly, of the effect of said merger of 1892 under the said constitution of 1890, and it is hereby pleaded as such; and fourthly, as to repeal of the same by subsequent legislation.

And the decision of the said supreme court in the case of Adams, State revenue agent, *v.* Yazoo & Mississippi Valley Railroad Company, rendered on the said 20th day of June, 1898, and made final in February, 1899, whereby it was declared that said merger of 1892 did form a new company and did cause the loss of said privilege, and the attempted overruling of said Lambert case, and the attempt thereby and by this suit to enforce the collection of the taxes herein sued for, all under legislation of the State enacted subsequently to the extension of said section twenty-one to the Natchez, Jackson & Columbus Railroad Company in 1870, as aforesaid, and through it to the Louisville, New Orleans & Texas Railway Company in 1890, as aforesaid, and through it to the defendant The Yazoo & Mississippi Valley Railroad Company, as aforesaid, are violative of the rights of said defendants, The Yazoo & Mississippi Valley Railroad Company, secured by the fourteenth amendment to the Constitution of the United States, in that they are an effort to deprive said company of their property without due process of law, and to deprive said company of the equal protection of the laws; also they are an effort to impair the obligation of the said charter of the Natchez & Jackson Railroad Company now enjoyed by defendant The Yazoo & Mississippi Valley Railroad Company, as aforesaid, and said con-

tract of merger of 1892 and all of the contracts made since said merger by said last-named company so constituted, by which it is bound or by which others were and *or* bound to it and into which contracts the nature of said company so constituted enters as
256 a- element of their obligation. Copies of said injunction proceedings against said Lambert, sheriff, are hereunto attached, marked Exhibits 2 and 3 respectively, and are made parts of this plea.

All of which defendants are ready to verify by the record, etc. Wherefore they pray judgment, etc.

MAYES & HARRIS,
Att'ys for Defendants.

Endorsed: Filed July 8, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Rejoinder to 5th Replication to 2nd Plea.

STATE OF MISSISSIPPI,
County of Hinds, First District.

In the Circuit Court, June Term, 1899.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET AL. } 3267.

Comes the defendants The Yazoo & Mississippi Valley Railroad Company and for a rejoinder to the fifth repliaction of the plaintiff to the second plea of these defendants do say—

That there is not any record of the said adjudication in said fifth replication mentioned remaining in the said office of the said board of railroad commissioners in manner and form as the said plaintiff hath above in his said replication alleged.

And defendants aver that the attempt herein to set up the said pretended judgment as conclusive adjudication of this cause, and the attempt thereby to enforce the collection of the taxes herein sued for, all under the legislation of the State enacted subsequently to the extension of said section twenty-one in 1870 to the Natchez & Jackson Railroad Co., and through it to the Louisville, New Orleans & Texas Railway Company in 1890, as aforesaid, and
257 through it to the defendant The Yazoo & Mississippi Valley Railroad Company in 1892, as aforesaid, are violative of the rights of the said defendants, The Yazoo & Mississippi Valley Railroad Company, secured by the fourteenth amendment to the Constitution of the United States, in that they are an effort to deprive said company of their rights of property without due process of law, and to deprive said company of the equal protection of the laws, and also they are an effort to impair the obligation of the said charter of the Natchez & Jackson Railroad Company, assigned, as aforesaid, to the Louisville, New Orleans & Texas Railway Company and now enjoyed by the defendant The Yazoo & Missis-

sippi Valley Railroad Company, and said contract of merger and all of the contracts made since said merger by said company so constituted by which it is bound or by which others were heretofore and are bound, to which end into which contracts the nature of the said company so constituted enters as an element of their obligation.

All of which the said defendants are ready to verify by the record and otherwise as shall be required.

Wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action against them.

MAYES & HARRIS,
Att'ys for Defendants.

And for further rejoinder to fifth replication to said second plea the said defendants deny that the said State railroad assessors had jurisdiction of the subject-matter set forth in said replication, and that by their decision and judgment they did reject and disallow the said alleged exemption or immunity in manner and form as the said plaintiff hath in his said sixth replication alleged.

Defendants aver that their response to the interrogatory in said schedule filed as an exhibit to the declaration in this case in respect to the claim of the Yazoo & Mississippi Valley Railroad Company of exemption from taxation of the property above described, which is set forth by its tenor in said sixth replication, was not and
258 was not intended to be an effort to avoid an assessment of said property by said commission, and was not and was not intended to be an objection to such assessment, but the same was placed upon and inserted in said schedules for no other reason than to avoid any pretense on the part of the plaintiff in this cause or any other authorized officer or officers of the State of Mississippi or of the counties or municipalities represented by him herein of a waiver by the said Yazoo & Mississippi Valley Railroad Company of its contract right of appropriation under said charter of the Natchez & Jackson Railroad Company by any omission when such schedules were filed to state the claim of *of* said company conformably to section 3875 of the Annotated Code of Mississippi, the supreme court of the said State having declared that the contract right claimed by said company was in effect an exemption from taxation.

Defendants aver that the attempt herein to set up the said pretended judgment as conclusive adjudication of this cause and the attempt thereby to enforce the collection of the taxes herein sued for, all under legislation of the State enacted subsequently to the extension of said section twenty-one in 1870 to the Natchez & Jackson Railroad Company, as aforesaid, and through it to the Louisville, New Orleans & Texas Railway Company, as aforesaid, and through it to the defendant The Yazoo & Mississippi Valley Railroad Company, as aforesaid, are violative of the rights of defendants The Yazoo & Mississippi — Railroad Company, secured by the fourteenth amendment to the Constitution of the United States, in that they are an effort to deprive said company of their property without due process of law, and to deprive said company of the

equal protection of the laws, and also they are an effort to impair the obligation of the said charter of the Natchez & Jackson Railroad Company, now enjoyed by the defendant The Yazoo & Mississippi Valley Railroad Company, and said contract of merger and all of the contracts made since said merger by said company so constituted by which it is bound or by which others were
259 heretofore and are bound, to which and into which contracts the nature of the said company so constituted enters as an element of their obligations.

All of which the said defendants are ready to verify by printed record or otherwise as shall be required.

Wherefore they pray judgment, etc.

MAYES & HARRIS,
Att'ys for Defendants.

Endorsed: Filed July 8, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Rejoinder to 4th Replication to 2nd Plea; also to Replication to 3rd Plea.

STATE OF MISSISSIPPI,
County of Hinds, First District.

In Circuit Court, at the June Term, 1899.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET AL. } 3267.

Comes the defendants The Yazoo & Mississippi Valley Railroad Company, by their attorneys, and for a rejoinder to the fourth replication to the second plea and to the replication to the third plea of the said defendants severally say:

That after the rendition of the judgment in said replication set forth and in due time, to wit, on the — day of March, 1899, the defendants in said cause duly and regularly prayed a writ of error from the said judgment in the said replication set forth to the Supreme Court of the United States, and the said writ of error to the said Supreme Court of the United States so by them prayed in said cause was duly and regularly allowed by the Honorable Thomas H. Woods, chief justice of the supreme court of the State of Mississippi, the said writ of error so allowed by the said chief justice being allowed by him, to operate as supersedeas.

260 The said writ of error so allowed was duly and regularly issued out of the circuit court of the United States in and for the southern district of Mississippi, at Jackson, and was duly served upon plaintiff in this cause, being also the plaintiff in the said cause, and citations, returnable to the Supreme Court of the United States, as aforesaid, was duly signed by the said honorable chief justice of the supreme court of the State of Mississippi and made returnable within thirty days to the said Supreme Court of the United States,

conformably to law, and was duly and regularly served upon the plaintiff herein, being also the plaintiff in said cause, and writ of error bond, to operate as a supersedeas, was duly executed and approved by the said chief justice of the State of Mississippi, all of such proceedings being duly and regularly had and conformably to law, wherein and whereby the said judgment so set forth and relied upon in said replication was superseded and the said cause was duly removed to the Supreme Court of the United States, where the same is now pending, undisposed of and undetermined.

A copy of said proceedings on writ of error is hereto attached as Exhibit "A" and is made a part of this rejoinder.

And the decision of the said supreme court of the State of Mississippi in the case named in said replication and the attempt thereby and therein to enforce the collection of the taxes herein sued for, all under legislation of the State enacted subsequently to the extension of said section 21 to the Natchez & Jackson Railroad Company, in 1870, as aforesaid, and through it to the Louisville, New Orleans & Texas Railway Company in 189–, as aforesaid, and through it to this defendant, The Yazoo & Mississippi Valley Railroad Company, in 1892, as aforesaid, are violative of the rights of the defendants secured by the 14th amendment to the Constitution of the United States, in that they are an effort to deprive the defendants of their property without due process of law and to deny them the equal protection of the laws; also they are an effort by such subsequent legislation to impair the obligation of the charter contracts
261 of the said defendants, The Yazoo & Mississippi Valley Railroad Company, deprived, as aforesaid, through said Natchez & Jackson Railroad Company and the Louisville, New Orleans & Texas Railway Company, and to impair the obligation of said contract of merger of 1892 and all of the contracts made by said defendant since said merger, by which it is bound or by which others are bound to it and into which contracts the nature of said company so constituted by said merger enters as an element of its obligations.

All of which these defendants are ready to verify by the record or as required otherwise. Wherefore they deny that said judgment so set forth in said replication is final, or that the same constitutes *res adju-cat-* in this cause or any other in manner and form, etc.

MAYES & HARRIS,
Att'ys for Defendants.

Endorsed: Filed July 8, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Agreement.

In the Circuit Court of Hinds County, First District, State of Mississippi.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS. (N. & J. Div.). } 3267.

In this cause it is agreed that the charters, records of this court and of the supreme court of the State of Mississippi and of the Mississippi railroad commission and State railroad assessors, referred to in the second and third pleas, and in the 4th and 5th replications to the second plea, and replication to third plea, and rejoinder to said replication, may be introduced on the hearing of demurrers and are considered as actually filed as parts of said pleadings, and
262 on any appeal or writ of error shall be copied as parts of said pleadings.

July —, 1899.

CRITZ, BECKETT & KIMBROUGH AND CALHOON & GREEN, *For Plaintiff.*
MAYES & HARRIS,
Att'ys for Y. & M. V. R. R. Co.

Endorsed: Filed July 8, 1898. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Demurrers to Rejoinders to 5th Replication to 2nd Plea.

In the Circuit Court of Hinds County, First District, State of Miss.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS. } 3267.

Comes the plaintiff, by attorney, and demurs to the 1st and 2nd rejoinders of defendants Yazoo & Mississippi Valley Railroad Company to the 5th replication of the plaintiff to the amended or 2nd plea of said defendant, and assigns the following causes of demurrer to each of said rejoinders separately and singlely:

1st. Each of said rejoinders is insufficient in law.

2nd. Said first rejoinder is no defense to said replication.

3rd. Said second rejoinder is no defense to said replication.

4th. The record of the *rp*oceedings before an assessment by said State railroad assessors and Mississippi railroad commission, pleaded as *res adju-cata*, is made a part of said replication by section 677 of the Annotated Code of 1892 of Mississippi, and by the agreement on file, and said rejoinders do neither of them deny that the same is a true copy and true record, but seek to deny and vary the legal effect

thereof and to evade the decision of this court in overruling their demurrer to said replication.

5th. The said rejoinders are inconsistent with said record now shown to the court here and seek to vary its force and effect.

263 CRITZ, BECKETT & KIMBROUGH &
CALHOON & GREEN,
Attorneys for Plaintiff.

Endorsed: Filed July 8, 1899. F. B. Neal, clerk, by W. J. Brown, D. C.

Demurrers to Rejoinder to Replication to 3rd Plea and to 1st and 2nd Rejoinders to 4th Replication to 2nd Plea.

STATE OF MISSISSIPPI:

In the Circuit Court, Hinds County, First District.

WIRT ADAMS, State Revenue Agent,
vs. } 3267.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS.
(N. J. & C. Div.).

Come*d* the plaintiff, by attorney, and demurs to the rejoinder of defendant Yazoo and Mississippi Valley Railroad Company to the plaintiff's replication to the 3rd plea of said defendant, and also to the first and 2nd rejoinders of said defendant to the 4th replication of the plaintiff to the amended or 2nd plea of said defendant, and assigns separately the following causes of demurrer to each and every of said rejoind-:

1. Each of said rejoinders is insufficient in law.

2. Said rejoinder to said replication to said 3rd plea is no defense to this suit or to said replication.

3. Said 1st rejoinder to said 4th replication to said 2nd plea is no defense to this suit nor to said replication.

4. Said 2nd rejoinder to said 4th replication to said 2nd plea is no defense to this suit nor to said replication.

5. Said 2nd rejoinder to said replication to said 3rd plea and said 1st rejoinder to said 4th replication to said 2nd plea do not show that the Supreme Court of the United States has ever reversed or in any way set aside or annulled or modified the said judgment and decisions in said case No. 2788 (consolidated) in this court and Nos. 8629–9251 in the supreme court of the State of Mississippi, pleaded and relied on and made part of said replication.

264 6. The said 2nd rejoinder to said 4th replication to said 2nd plea and said 4th replication and the record therein relied on show that said judgments and decisions in said case No. 2788 in this court and No. 8629 and 9251 in the supreme court of the State of Mississippi were made and rendered after the judgment and decision set up and relied on in said Lambert case mentioned in said 2nd rejoinder and overrule and nullify the same.

7. The said 2nd rejoinder does not show that in said Lambert

case therein relied on the parties were the same, or that the property was the same, or that the charter exemptions were the same, or that all of the questions alleged to be decided in said 4th replication were the same, or that said 2nd rejoinder is any answer to said 4th replication.

CRITZ, BECKETT & KIMBROUGH &
CALHOON & GREEN, *Att'ys for Plaintiff.*

Endorsed: Filed July 8, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Notice to Produce Documents.

In the Circuit Court of Hinds County, First District.

WIRT ADAMS, State Revenue Agent,
vs. } 3267.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS.

To the Yazoo & Mississippi Valley Railroad Company *Company*, Mess. Mayes & Harris, its attorneys *for* record:

You will please produce on the trial of the above-styled cause for the taxes for 1898 on Natchez, Jackson & Columbus division of defendant, at the June term, 1899, of said court and thereafter the books and papers of defendant and in its possession and control, showing—

1. The gross & net earnings and operating expenses for
265 each of the years 1892 and 1898, inclusive of both years, of said defendant on its entire system.

2. The gross and net earnings and operating expenses for each of the years 1886 to 1898, both exclusive, on that part of its system which is known as Natchez, Jackson & Columbus division, L., N. O. & T. R. R., the Riverside division, special charter, the Riverside division, the Helena branch, and the Tallahatchie branch.

3. The gross and net earnings and operating expenses for each of said years 1886–1898, both exclusive, on said L., N. O. & T. R. R., main line, and of each of said divisions separately, and on those two parts of said main line north and south of Vicksburg separate.

CRITZ, BECKETT & KIMBROUGH AND
CALHOON & GREEN, *Att'ys for Plaintiff.*

EXHIBITS.

An act to authorize the Memphis and Vicksburg Railroad Company and the Mississippi Valley and the Ship Island Railroad Company to effect a consolidation.

SECTION 1. *Be* it enacted by the legislature of the State of Mississippi, That the Memphis — Vicksburg Railroad Company, and the Mississippi Valley — Ship Island Railroad Company be, and they are hereby authorized and empowered to consolidate with each other, or with each and any other railroad company or companies,

whether such company or companies have been incorporated under the laws of this State, or of any other State, so that all of the companies so consolidating shall be merged into and become one company; and the company so formed by such consolidation shall be deemed and held to be a corporation created by the laws of the State, and shall have, enjoy and possess all the rights, ways, privileges, franchises, property, grants and immunities, which are now possessed by the companies which may enter into such consolidation, as fully as though the same were conferred specifically in this act, and to that end the charters of said consolidating companies shall be taken and held to be a part of this act.

266 SEC. II. Be it further enacted, That the company created by the consolidation of such companies as aforesaid, shall be known and designated by such name as the stockholders of the companies so consolidating may fix and adopt, and by that name shall contract and be contracted with, sue and be sued, plead and be impleaded, and it shall be authorized to adopt a common seal and to alter and change the same at pleasure, and shall have perpetual succession.

SEC. III. Be it further enacted, That the officers of said consolidated company shall consist of a president, vice-president, secretary and treasurer, and nine directors who shall be elected by the stockholders of the companies entering into such consolidation, at the time the same is effected; and such officers shall be elected annually thereafter, upon such notice and terms as the board of directors may prescribe; but the failure to hold any annual election shall in nowise impair or affect said corporation. In such event the officers elected at the last regular election shall hold until their successors are elected and qualified, and a special election may be held for that purpose.

SEC. IV. Be it further enacted, That the stockholders of the companies so consolidated shall at the time the consolidation is effected, prescribe the terms, mode and manner upon any by which the stock of tye companies shall be taken up, and the stock of the consolidated — shall be — for all the debts which may be legally chargeable against any of the consolidated companies.

SEC. V. Be it further enacted, That the provisions of the twenty-first section of an act entitled "An act to incorporate the Mobile & Northwestern railroad, approved July 20th, 1870" *is* hereby made to apply to the said consolidated company, and for that purpose the said section shall be construed as though the said twenty-first section was especially and fully set out herein. But this section shall not be in force for a longer time than twenty-five years from the approval of this act.

267 SEC. VI. Be it further enacted, That the company formed by consolidations as aforesaid, be, and the same is hereby authorized and empowered to issue its bonds for such amounts, and payable at such times and places, as a majority of its stockholders may agree upon, and to secure the same by mortgage or deed of trust upon all its rights, ways, franchises and property, real and personal, no matter where the same is situated and whether the

same be owned by said company at the time of its formation, or thereafter acquired.

SEC. VII. Be it further enacted, That the capital stock of the company so formed by consolidation, shall be such amount as *to* the stockholders of the consolidated companies may agree upon and fix, and thereafter the amount of its capital stock may be increased at the pleasure of its stockholders.

SEC. VIII. Be it further enacted, That section nine of an act entitled "An act to incorporate the Memphis & Vicksburg Railroad Company," approved August 8th, 1870, be and the same is hereby repealed.

SEC. IX. Be it further enacted, That the maximum rates to be charged by said company for its transportation of freight and passengers shall not exceed four cents per mile for each passenger; sixty-five cents per one hundred pounds for first and second class freight- for one hundred miles or less; forty-five cents per one hundred pounds for third and fourth class freights for one hundred miles or less; thirty-two cents per one hundred pounds for fifth and sixth class freights, for one hundred miles or less; provided, that for carrying such articles as coal, iron, lumber, cattle, horses, mules, hogs, sheep and machinery, the company may make special rates with shippers per car-load: but for smaller articles, and from the same place, and for the same distance, others shall have the advantage of the same rates. And provided further, that the company shall not be required to charge less than twenty-five cents for each passenger, package or parcel.

268 SEC. X. Be it further enacted, That this act shall not be in any manner binding or obligatory upon the said Memphis & Vicksburg Railroad Company, and the Mississippi Valley & Ship Island Railroad Company, unless they shall fail to signify their rejection of it by a resolution of their board of directors, and file a copy thereof in the office of the secretary of state within thirty days after its passage, but if they should so fail to signify their rejection of the same, then this act shall be held to be in force from and after its passage.

SEC. XI. Be it further enacted, That no mortgage executed by said company shall protect its property against the collection of claims for damages done by its engines and cars to the persons or property of citizens and residents of the State of Mississippi.

Approved March 3rd, 1882.

OFFICE OF SECRETARY OF STATE, }
Jackson, Mississippi. }

I, Henry C. Myers, secretary of state, do certify the act hereto attached entitled "An act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley & Ship Island Railroad Company to effect a consolidation" is a true and correct copy of the original now on file in this office.

[SEAL.] Given under my hand and the great seal of the State of Mississippi hereunto affixed this 3rd day of March, 1882.

HENRY C. MYERS,
Secretary of State.

An act to amend an act entitled "An act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley & Ship Island Railroad Company to effect a consolidation," approved March 3rd, 1882.

SEC. 1. Be it enacted by the legislature of the State of Mississippi That the act entitled "An act to authorize the Memphis & Vicksburg Railroad Company and the Mississippi Valley & Ship Island
269 Railroad Company to effect a consolidation," approved March 3rd, 1882, be and the same is hereby so amended as to authorize and empower the Memphis & Vicksburg Railroad Company and any other railroad companies, incorporated under the laws of this State, to consolidate in the manner and upon the terms and conditions, and with the rights, privileges and immunities in said act mentioned, with each other, and any other railroad company or companies, incorporated or organized under the laws of any other State or States, and that such consolidation may be so effected whether the Mississippi Valley & Ship Island Railroad Company becomes a party to such consolidation or not.

SEC. 2. That this act take effect and be in force from and after its passage.

Approved March 15, 1884.

(*Vide General Laws of Tennessee and Louisiana Authorizing Consolidation.*)

An act to authorize the Natchez, Jackson & Columbus Railroad Company to sell its railroad, situated in this State, or to consolidate the same.

SEC. 1. Be it enacted by the legislature of the State of Mississippi, That the Natchez, Jackson & Columbus Railroad Company, incorporated on the 21st day of July, 1870, under the laws of this State, be and it is hereby authorized and empowered to sell absolutely all, or any part of its railroad and other property, lying, being and situated in the State of Mississippi, together with all franchises, rights, powers, privileges and immunities, unto the said Natchez, Jackson & Columbus Railroad Company appertaining and belonging.

SEC. 2. That the Louisville, New Orleans & Texas Railway Company, and the Natchez, Jackson & Columbus Railroad Company are hereby authorized to consolidate with each other, under the name of the Louisville, New Orleans & Texas Railway Company, and upon such terms as may be agreed upon by said companies.

SEC. 3. That this act take effect and be in force from and after its passage.

270 Approved February 19, 1890.

Charter of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company.

An act to incorporate the New Orleans, Baton Rouge, Vicksburg & Memphis Short Line Railroad Company.

SEC. 1. Be it enacted by the legislature of the State of Mississippi: That A. R. Shaw, F. Willoughby, L. G. Chapman, F. H. Brown, N. B. Norwood, F. O. Brown, T. A. Moore, and B. F. Morris and their associates, successors and assigns, be and they are hereby made and constituted a body corporate and politic, by the name of the New Orleans, Baton Rouge, Vicksburg & Memphis Railroad Company, and by that name may sue and be sued, plead and be impleaded, in any court in this State, and have a common seal, the same to break, alter or renew at pleasure, and the said company is hereby authorized and empowered to locate and construct a single or double standard gauge rail road or way, from the city of Vicksburg, in the county of Warren, on or by that route which said company may determine to be the most practicable or desirable, toward the city of Memphis in the State of Tennessee, and to such a point on the line dividing the State of Mississippi and the State of Tennessee, as the company may determine upon, to connect at said point with any rail road or way running out of or from the city of Memphis, and also from said city of Vicksburg, by or on any route which said company may determine to be the most desirable toward the city of New Orleans, in the State of Louisiana, and to such a point on the line dividing the State of Mississippi from the State of Louisiana, as the company may determine upon, and to connect at said point with a railroad leading out of or from the city of New Orleans to said point on said dividing line; also to run a branch from any point on said road to the city of Natchez, in the county of Adams, and to take, transport, and carry persons or property upon said rail road or way, and to receive, for the safe keeping and store, merchandise and all other property in its yards and warehouses, and to
271 receive for such safe keeping, passage and transpo-tation such tools and charges as may, from time to time be established by the directors of said company, and to construct, establish, or purchase, in this State, and thereafter to own, maintain, use, and lease suitable wharves, piers, warehouses, yards, depots, harbors, stations, and all other works and appurtenances connected with and incidentical to said railroad, and to run and manage the same as the directors of said company shall deem most expedient to the welfare of the company.

SEC. 2. Be it further enacted, That the said company be, and is hereby authorized and empowered to enter upon, take and hold any land or premises whatever, whether by purchase, grant, donation, devise or otherwise that may be necessary and proper for the construction and working of said road, not exceeding fifty feet in width on each side of the line of its railroad, unless a greater width be required for excavation or embankment, and also any lands or

premises that may be necessary and proper for turnouts, side tracks standing places for cars, depot, station-houses, work and machine shops, and any other structures required in the construction, security and working of said railroad; and said company shall have the right to cut and remove trees and other material that might by falling, encumber its road-bed, though standing more than fifth feet from the lines of said road; and in case the owners of such lands or premises cannot agree with said company as to the value of the premises taken or to be taken for use of said road, the value thereof shall be determined by the appr-isal of three disinterested commissioners, who may be appointed on the application of either party to the chancery court of the county in which the land or premises to be taken lie; and the said commissioners shall appr-ise, in their assessment of damages — such premises what would have been the value thereof, had not the road been built, and upon the return into court of such appraisement, and upon the payment into the same of the estimated value of the premises taken, for use and benefit
272 of the owners thereof, said premises shall be deemed to be taken by said company, which shall acquire full title to the same for the purposes aforesaid, either party feeling aggrieved at such an appraisement may, within thirty days after the same has been returned into court, file an appeal thereform, and demand a jury of twelve men to estimate the damages sustained; but such an appeal shall not interfere with the right of said company to enter upon the premises taken, or to do any act necessary and proper in the construction of its road; and the party appealing shall give bond with sufficient security for the payment of costs that may arise from said appeal; and in case the party appealing does not obtain a verdict increasing or diminishing, as the case may be, the award of the commissioners, such party shall pay the whole costs incurred by the appellee, as well as his own, and the payment into court, for the use of the owner of the premises taken, of a sum equal, to that finally awarded, shall be held to vest in said company the title of said land, and the right to use and occupy the same for the construction, maintenance and operation of said road; and in case any of the lands to be taken as aforesaid, shall be held by any infant, *femme covert*, *non compos* or insane person or persons residing without the State, or person subjected to any legal disability, the court may appoint a guardian for such party, to appear in proper person who shall give bond, with sufficient security, for the faithful and proper execution of his trust, and who may represent in court the person disqualified or residing without the State as aforesaid, when the proceedings shall be had in reference to the appraisement of the premises to be taken for the use of said company, and with the same effect as has been already *been* described and the title of the company to the lands taken by this act shall not be effected or impaired by reason of any failure of any guardian to faithfully discharge his trust; and — case any party shall have a right or claim to any land for a term of years or any interest therein in possession, reversion or remainder, or as mortgagee, trustee or *cestu- que trust*, the
273 value of any such estate, less than a fee-simple, and of all interest therein, shall be estimated and determined in the

manner hereinbefore set forth; and in case it shall be necessary to enter upon any lands unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purpose of the railroad, and may institute proceedings in the manner prescribed, for the purpose of ascertaining the value and acquiring the title to the same; but the court shall determine the kind of notice to be served on such owner or owners, and may, in its discretion, appoint an agent or guardian, to represent such owner or owners in case of his or her incapacity or non-appearance; but in case no claimant shall appear in six years from the time of the opening said road across any land, claims to damages against said company shall be *ab*rred; an*y* when any land to be taken for the purposes aforesaid shall belong to any infant, *non compos*, or insane person, having a resident general guardian, such guardian may agree with said company upon the amount of damages to be paid for taking such lands, or release to said company his claim or right to damages in the premises.

SEC. 3. Be it further enacted, That the capital stock of said company shall be five million two hundred and fift*h* thousand dollars, represented by fifty-two thousand shares, of the value of one hundred dollars each, with the right to increase said capital stock, as the extension of the main line or the purchase or construction or branches may require; provided, the consent of the stockholders holding the larger amount in value of stock be first obtained at a meeting of stockholders, to be held after thirty days' notice, to be given in pursuance of law, which shares shall be deemed personal property, and to be transferred in such manner as the by-laws of said company shall direct.

SEC. 4. Be it further enacted, That the time and manner for the payment of stock shall be such as may be determined by the bo-rd of directors; provided, however, that no call shall be made 274 for more than ten per cent. on each share at any time, and that a period of thirty days shall elapse before another call can be made; and in case any stockholder shall refuse or neglect to make payment pursuant to the requisition of the board of directors, the stock of such stockholder, or so much thereof as may be necessary, may be sold by the board of directors of said company at public auction, after the lapse of sixty days from the time when the payment became due, and all surplus money, the proceeds of such sale, after deducting the payments and the interest thereon, and the necessary expenses of the sale, shall be paid over to such negligent stockholder.

SEC. 5. Be it further enacted: That any county through — said railroad will pass, incorporated city or town, interested therein, or any township along the line of said road or contiguous thereto, may subscribe to the capital stock of said company in any sum, the interest upon which at seven per cent. per annum, shall not exceed two per cent. upon the assessed value of real estate within their limits.

SEC. 6. Be it further enacted: That no subscription shall be made to the capital stock of said company until the question has been

submitted to the legal voters of such county, or counties, city or cities, incorporated town, or townships, in which the subscription is proposed to be made, and the president and the board of supervisiors for the county, and the mayor of any incorporated city or town, is hereby required, upon the petition of fifteen legal voters and taxpayers of such county, city or town and in which petition the amount proposed to be subscribed shall be stated, to post up notices in at least five public places in such county, city or town, and to publish the same in the newspaper published in such place, not less than twenty days before holding such election notifying the legal voters of such county, city or town to meet at the us-al places for holding elections in such county, city or twon, for the purpose of voting "for" or "against" such subscription; and the officers aforesaid shall appoint judges and returning officers for such elections, which shall in all respects be conducted as other elections
275 are in such county, city or town, and the return thereof made in the same manner; and the result shall be entered upon the monutes of the board of supervisiors, in the case of a county, and of a city or twon, in the respective minutes of said city or town.

SEC. 7. Be it further enacted: That if it shall appear that two-thirds of all qualified votes cast at such election of county, city or town have voted "for subscription," it shall be the duty of such president of the board of supervisiors of such county, or the chief of such incorporated city or town, to subscribe to the capital stock of said railroad company and on the name of such county, city or town, the amount so voted to be subscribed, and to receive from said company the proper certificates therefor; he shall also execute to said company in the name of such county, city or town bonds bearing interest at seven per cent. per annum which bonds shall be payable to bearer, and run for a term of not more than twenty years, and the interest on the same shall be payable annually, and such bonds shall be signed by such president, mayor or other executive officer, and be attested by the clerk of the board of supervisiors, or of the city or town, as the case may be, in whose name the bonds are issued, and a true record shall be kept of all such bonds so issued; said bonds shall be delivered to the president or secretary of said company, for the use of said company.

SEC. 8. Be it further enacted: That if any county shall refuse to subscribe to said company, any township along, or near said railroad, shall petition as aforesaid, the president of the board of supervisiors, for an election, the president shall order an election as herein provided for counties, and if two-thirds of the voters at such election of said township shall vote for "subscription," the result thereof shall be entered upon the minutes of the board of supervisors for said county. The president of the board of supervisiors of such county shall execute to said company, in the name of said township, to be particularly designated by the number of the twonship in
276 the United States surveys, or by some name given thereto, bonds bearing interest at seven per cent. per annum, which shall be in all respects of the same character as the bonds described in section seven, and shall be signed by the president, and attested

by the clerk of the board of supervisiors, and a record kept of the issuance of said clerk, and shall be delivered to the president or sec-etary of said company.

SEC. 9. Be it further enacted: That it shall be the duty of the assessor of taxes in such county, city or *twon* or township, annually, after the execution and delivery of such bonds as aforesaid, to compute and assess upon the taxable property of such county, city, town or township, a sum sufficient to pay the interest and cost of collection and disbursement upon all bonds so issued by the respective counties, cities, town- or townships, which tax shall be entered on the assessors' books made out *out* for the collection as other taxes are, in a column designated, "interest on railroad bonds," and shall be collected in the manner as other taxes are; and when collected shall be paid to the treasurer of the county, and paid in redemption of the coupons, for which said taxes were assessed respectively and collected; and such counties, cities, towns and townships, shall have the power to provide by judicious taxation for the redemption of their respective bonds herein provided for.

SEC. 10. Be it further enacted: That at all elections for officers, and in all questions voted on by stockholders of said company, the president of the board of supervisiors of any township, which shall have subscribed to said stock shall represent and cast the vote which said stock is entitled to cast, unless said county, city, toqn or township, shall appoint some other person to perform said duty.

SEC. 11. Be it further enacted: That no stockholders, whether corporate or natural persons, shall be liable under his or their subscriptions of stock of said company for more than the amount of their respective subscriptions of stock, and according to the call of the directors, under the conditions hereinbefore provided.

277 SEC. 12. Be it further enacted: That the persons named in the first section of this act, and such other persons as may associate themselves with them, or a majority of them, shall open books to receive subscriptions to the capital stock of said company, at such times and places as they or a majority may appoint, and shall give such notice of the time and place of opening said books, as they may deem reasonable, and shall receive subscription under such regulations as they may adopt for the purposes.

SEC. 13. Be it further enacted: That the corporate power of this company shall be vested in a board of directors, composed of the seven incorporate members, and shall hold their offices until the first day —— 188–, or until their successors are elected and qualified.

SEC. 14. Be it further enacted: That the next board of directors shall be elected at the general election of officers which shall be held on the first Monday in April 188–, and annually on said day, thereafter. All elections shall be by ballot, and each stockholder shall be entitled to vote in person or by proxy, one vote for each share of stock held by such person, corporate or natural, for ten days previous to the elections; and in all elections, or deliberations, each person shall be entitled to one vote in person, or by proxy, for each and every share held by him as aforesaid.

SEC. 15. Be it further enacted: That in case it shall so happen, that an election of directors shall not be made on the day herein appointed, said company, shall not, for that cause, be deemed dissolved, but said election shall be held on any day which may be appointed by the directors of said company; and the directors and officers shall continue in office until their successors are elected and duly qualified.

SEC. 16. Be it further enacted: That the directors shall have full power to make and prescribe such by-laws, rules and regulations, not contrary to this c*ah*rter, nor of the State of Mississippi, or
278 the United States, as they shall deem needful and proper, touching the disposition of stock, property, estate and effects of said company, the transfer of shares, the duties and conduct of officers and servants, and all matters whatsoever, which may appertain to the concerns of said company; and said company is also hereby empowered to take and hold, whether by purchase, grant, donation, devise or otherwise, such real estate and other property as may be necessary and convenient in accomplishing the objects for which this incorporation is granted, and by their agents, surveyors, engineers and servants, enter upon such route or places to be designated by the *us*rveyor thereof, made and adopted by the directors of said company.

SEC. 17. Be it further enacted: That said company is hereby authorized to construct, erect, make, build or purchase and thereafter to own, maintain use and lease, a single or double rail road or way, of suitable width or dimensions, to be determined by the directors of said company, on the line or course by them designated, and shall have power to regulate the time and manner in which goods or passengers shall be transported, taken and carried on the same, and shall have power to erect and maintain, toll-houses and all other buildings for the accommodation of their concerns, as they deem suitable for their interests.

SEC. 18. Be it further enacted: That whenever it shall be necessary for the construction of their single or double rail road, or way to cross any streams of water or any road or highway, it shall be lawful for said company to construct said railroad across or upon the same; but said company shall restore said stream, road or highway, thus intersected or crossed to its former state, or in such a state as not to impair its usefulness; and in all cases, when any road or public highway is so located, that said railroad cannot be judiciously laid out or constructed across or upon the same without interfering therewith, the county supervisors may authorize in such cases, the company by their engineer, to cause such road or roads to be changed or altered in such a manner that said railroad may be made
279 on the ground for that purpose; provided, that said company shall put such road thus altered, in as good repair as at the time of changing or altering the same.

SEC. 19. Be it further enacted: That if any person shall wilfully do or cause to be done, any act or acts whatever, whereby any building, construction or work of said company, or any engine, machine or structure or other matter or thing appertaining to the same, shall

be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be deemed guility of a misdemeanor, and shall forfeit and pay to said company double the amount of damages sustained by means of such offense or injury, to be recovered in the name of the company, with costs of suit by action for debt.

SEC. 20. Be it further enacted: That said company is hereby authorized and empowered, from time to time, to borrow money or purchase property on its own credit, for the purpose of constructing and maintaining said railroad, and as eveidence of the indebtedness of the company, for such loans or for the purchase of property, may issue its corporate bonds or promis-ory notes, bearing interest at such a rate per annum and payable at such times and places as the directors of said company may fix and designate; and to secure the payment of such bonds or notes and interest may mortgage its railroad, its corporate franchises, its real and personal property, or any part or po-tion thereof and it may, by its president or other officers or agents duly authorized by the directors, sell, negotiate or dispose of said bonds or promissory notes, or of its stock, or any of its personal or real property, at such times and places and at such rates and for such prices, either within or without the State, as the board of directors may deem best for the interest of the company, and if such capital stock, bonds or notes shall be valid for the par value thereof, as if the same had been sold at par value.

SEC. 21. Be it further enacted: That said company may receive and take in payment, as cash for stock, upon the subscrip-
280 tion therefor, any lands the same to be conveyed to it in fee-simple, which shall be valued and appraised by the directors of the company, and such valuation thereof shall be returned in writing to the president of said company, who shall cause the same to be entered upon the proper books of the company and to the credit of the subscription of the grantors, and certificates of stock shall be issued therefor to the subscribers thereof.

SEC. 22. Be it further enacted: That no bonds issued and delivered to said company by county, city, town or township, shall be sold or negotiated, without the concurrence of two-thirds of the directors of said company, entered by record so as to preserve the evidence thereof.

SEC. 23. Be it further enacted: That the officers, agents and servants of said company be and they are hereby exempt from jury duty and militia duty, while in the actual service of the company, except in case of insurrection or invasion.

SEC. 24. Be it further enacted: That the domicile of said company shall be fixed in the city of Vicksburg, and the business of said company shall be done and transacted, and the records kept at the domicile of said company; and service of process, wherein said company is interested shall be upon the president of said company or the secretary thereof; and the rights, power and authority granted in this act of incorporation shall be perpetual, except that the same may be altered or amended as necessity may require.

SEC. 25. Be it further enacted: That the company shall have

power and authority to purchase and hold any connecting railroad and operate the same, or to consolidate the company with any other company, under the name of one or both; but when such purchase is made, or consolidation is effected, the said company shall be entitled to all the benefits, rights franchises, lands and property of every description belonging to said road or roads, so sold or consolidated.

SEC. 26. Be it further enacted: That this corporation may be dissolved at a general meeting convened for that purpose, with
281 the assent of a majority of the stock represented at such meeting, and in case of dissolution, the liquidation shall be conducted by three commissioners, elected by ballot at such meeting.

SEC. 27. Be it further enacted: That this act shall take effect and be in force from and after its passage.

Approved March 9, 1882.

Judgment.

June Term, 1899.

JULY 8, 1899.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET AL. } 3267.

This day came on to be heard this cause on the demurrer of the plaintiff, Wirt Adams, State revenue agent, to the rejoinder of the defendant Yazoo & Mississippi Valley Railroad Company to the plaintiff's replication to the 3rd plea of said defendant, and on the demurrer of plaintiff to the 1st and 2nd rejoinders of said defendant to the plaintiff's 4th replication to the amended or 2nd plea of said defendant, and on the demurrer of plaintiff to the 1st and 2nd rejoinders of said defendant to the plaintiff's 5th replication to said amended or 2nd plea of said defendant, and the court, after hearing the pleadings and said demurrer and the arguments of counsel on both sides, considers, and it is so ordered and adjudged, that said demurrers be, and they are hereby, each and all sustained; to which ruling of the court the said defendant excepted and the exception is allowed, and the said defendant declining to plead further and saying nothing further in bar of the action, it is now considered and adjudged that said pa*l*intiff, for the use of the State of Mississippi and of the counties and town- in the declaration mentioned, do have and recover of the said defendants, Yazoo & Missis-
282 sippi Valley Railroad Company (writ of inquiry being waived as unnecessary), the several amounts in and for said State, counties, and municipalities as follows on Natchez, Jackson & Columbus division:

In the county of Hinds:

Privilege tax	$552.05
State tax	2,187.10
County tax	2,018.86

In the county of Copiah:

Privilege tax	61.17
State tax	246.95
County tax	265.95

In the county of Claiborne:

Privilege tax	280.63
State tax	1,121.56
County tax	1,466.65

In the county of Jefferson:

Privilege tax	380.58
State tax	1,526.33
County tax	2,148.61

In the county of Adams:

Privilege tax	200.34
State tax	873.57
County tax	1,208.87

And for the use of municipalities as follows:

Jackson	96.69
Raymond	40.54
Utica	33.26
283 Fayette	16.33
Natchez	517.71

aggregating the sum of fifteen thousand two hundred and forty-three $\frac{77}{100}$ dollars ($15,243.77), with interest thereon, at the rate of six per cent. per annum, from this date, together with the cost in this behalf expended, for all of which execution may issue.

It is further ordered that this suit is dismissed as to all municipalities mentioned in the declaration which are not included in this judgment.

Agreement as to Record.

In the Supreme Court of Mississippi, October Term, 1899.

No. —.

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY, Appellant,
vs.
WIRT ADAMS, State Revenue Agent, *et al.*, Appellants. } No. 3267.

Appeal from the circuit court for the first district of Hinds county.

It is her-by agreed that in making the assessment of what was formerly the Natchez, Jackson & Columbus Railroad Company, the property about which the taxes of 1898 are in controversy in this

suit, the railroad commission, as State railroad assessors, did not in terms or in any way pass on the objection filed by the Yazoo & Mississippi Valley Railroad Company, and that the only objection filed by it are those mentioned in the 6th replication and on the face of the copy of the assessment-rools on file, and that said State railroad assessors did not notice or pass on the same further than may be implied in simply making out the assessment-rolls, as in case of all other railroad- where no objections were filed, and it is agreed that the clerk in making out the transcript for the Supreme Court may copy this agreement in place and stead of making out a new copy of the assessment-rolls or record of the said railroad commission or State railroad assessors.

284 This September 5, 1899.

MAYES & HARRIS,
Attorneys for Appellants.
CRITZ, BECKETT & KIMBROUGH &
CALHOON & GREEN,
Appellants *for Appellees.*

Endorsed: Filed September 12, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

(NOTE BY CLERK.—These assessments had been copied and made a part of the record prior to the filing of this agreement.)

Appeal Bond.

STATE OF MISSISSIPPI, }
County of Hinds. }

Know all men by these presents that the Yazoo & Mississippi Valley Railroad Company, as principal, and the Illinois Central Railroad Company and the Chicago, St. Louis & New Orleans Railroad Company, as sureties, are held and firmly bound unto Wirt Adams, State revenue agent, in the penal sum of thirty-two thousand dollars ($32,000.00); for the payment of which, well and truly to be made, they bind themselves firmly by these presents.

The condition of the above obligation is such that whereas, on the 8th day of July, 1899, a judgment was rendered against the said Yazoo & Mississippi Valley Railroad Company for the sum of fifteen thousand two hundred and forty-three and $\frac{77}{100}$ dollars ($15,243.77) in the circuit court, first district of Hinds county, Mississippi, and the said Yazoo & Mississippi Valley Railroad Company has prayed an appeal from said judgment to the next term of the supreme court of the State of Mississippi:

Now, therefore, if the said Yazoo & Mississippi Valley Railroad Company shall prosecute its appeal to effect and well and truly perform, do, and abide by all such judgments or orders as
285 shall be made against it in the said supreme court, then this obligation is to be void; otherwise to remain in full force and effect.

In testimony whereof the said railroad companies have hereunto

affixed their corporate names and seals this the 4th day of August, 1899.

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY (*Principal*),
By J. C. WELLING, *Vice-President.*
ILLINOIS CENTRAL RAILROAD COMPANY,
By J. C. WELLING, *Vice-President, Sureties.*
CHICAGO, ST. LOUIS & NEW ORLEANS R. R. COMPANY,
By J. C. WELLING, *Vice-President.*

[Seal Chicago, St. Louis & New Orleans R. R. Co.]

Attest: W. G. BOWEN, *Ass't Secretary.*

[Seal Illinois Central R. R. Company.]

Attest: W. G. BOWEN, *Ass't Secretary.*

[Seal Yazoo & Miss. Valley R. R. Company.]

Attest: W. G. BOWEN, *Ass't Secretary.*

Endorsed: Approved and filed Aug. 7, 1899. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Certificate.

STATE OF MISSISSIPPI, }
Hinds County. }

I, F. B. Neal, clerk of the circuit court in and for said county and State, hereby certify the foregoing an- annexed 112 pages to contain a full, true, and correct transcript of the record of the cause stated in the caption as the same remains on file and of record in my office.

Given under my hand and the seal of said court this 25th day of September, 1899.

F. B. NEAL, *Clerk,*
By W. J. BROWN, JR., *D. C.*

286	Clerk....	$44.80
	Certificate, .25; bond, .50; citation .	1.50
	Binders' fee	....
		$46.30

Paid by appellant.

287 STATE OF MISSISSIPPI,
County of Hinds, First District.

In the Supreme Court, to the December Special Term, 1899.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY, Appellant,
v.
WIRT ADAMS, State Revenue Agent, Appellee. } No. 9462.

Assignment of Errors.

Comes the appellant herein, by its counsel, and assigns for error as follows:

1. The court erred in sustaining the demurrer to the first plea of the defendant.

2. The court below erred in overruling the demurrer of the defendant to the fourth replication of the plaintiff to the defendant's second plea.

3. The court below erred in overruling the demurrer of defendant to the fifth replication of the plaintiff to the defendant's second plea.

4. The court erred in sustaining the demurrer of the plaintiff to the first rejoinder of the defendant to the fourth replication of the plaintiff to defendant's second plea.

5. The court below erred in sustaining the demurrer of the plaintiff to the second rejoinder of the defendant to the fourth replication of the plaintiff to defendant's second plea.

6. The court below erred in sustaining the demurrer of the plaintiff to the first rejoinder of the defendant to the fifth replication of the plaintiff to defendant's second plea.

7. The court below erred in sustaining the demurrer of the plaintiff to the second rejoinder of the defendant to the fifth replication of the plaintiff to defendant's second plea.

8. The court below erred in overruling the demurrer of the
288 defendant to the replication of plaintiff to the defendant's third plea.

9. The court below erred in sustaining the demurrer of the plaintiff to the rejoinder of the defendant to the replication of the plaintiff to defendant's third plea.

Respectfully submitted.

MAYES & HARRIS,
Att'ys for Appellant.

289 Supreme Court, State of Mississippi, December Special Term, 1899.

TUESDAY, *December 5th*, 1899.

C., A. & N. R. R. Co. ET AL.
v.
WIRT ADAMS, State Revenue Agent. } 9455.

Y. & M. V. R. R. Co. ET AL.
v.
WIRT ADAMS, State Revenue Agent. } 9461.

Y. & M. V. R. R. Co. ET AL.
v.
WIRT ADAMS, State Revenue —. } 9462.

Argued orally together by Mess. R. B. Beckett and Marcellus Green, for the appellee.

WEDNESDAY, *December 6th*, 1899.

C., A. & N. R. R. Co. ET AL.
v.
WIRT ADAMS, State Revenue Agent. } 9455.

Y. & M. V. R. R. Co. ET AL.
v.
WIRT ADAMS, State Revenue Agent. } 9461.

Y. & M. V. R. R. Co. ET AL.
v.
WIRT ADAMS, State Revenue Agent. } 9462.

Submitted together on briefs by Messrs. Mayes & Harris, for the appellants, and Mess. Critz, Beckett & Kimbrough & Calhoon & Green, for the appellees.

290 *Judgment.*

Supreme Court, State of Mississippi, March Term, 1900.

Y. & M. V. R. R. Co. ET AL.
v.
WIRT ADAMS, State Revenue Agent. } 9462.

MONDAY, *May 7th*, 1900.

This cause having been submitted at a former term of this court on the record herein from the circuit court of Hinds county, 1st district, and this court, having sufficiently examined and considered the same and being of opinion that there is no error therein, doth order and adjudge that the judgment of said circuit court rendered in this cause, at the June term thereof, A. D. 1899, on the 8th day of July, A. D. 1899, be, and the same is hereby, affirmed, and that appellee, Wirt Adams, State revenue agent, use, &c., do have and recover of and from the appellant-, The Yazoo & Mississippi Valley

Railroad Company and The Illinois Central R. R. Co., and the Chicago, St. Louis & New Orleans Railroad Co., sureties on appeal bond, the sum of fifteen thousand two hundred and forty-three $\frac{77}{100}$ ($15,243.77) dollars, being the amount of the judgment in the court below, with interest, at six per cent. per annum, from July 8th, 1899, until paid, and the further sum of $762.18, being 5% statutory damages on appeal, together with the cost of this cause in this court and the court below, to be taxed, &c.

291 *Opinion of Court.*

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY *et al.*
—
WIRT ADAMS, State Revenue Agent, Use, etc. } 9461, 9462.

ALEXANDER, special judge, delivered the opinion of the court:

The railroad commission in August, 1898, proceeded in the manner prescribed by law to assess for taxation the railroad property formerly owned by the L., N. O. & T. R. R. Co., and which had passed to the Y. & M. V. R. R. Co. by the consolidation of the two companies, effected on Oct. 24, 1892. The assessment was made against the last-named company and against the I. C. R. R. Co. Although due notice was given, no objection was made to the assessment, and the time for certiorari having expired, the State revenue agent brought this action to recover taxes for 1898 thus assessed. By their second plea, which was a more amplification of their first plea, which was held defective, defendants sought to avail of the exemption from taxation contained in sec. 21 of the charter of the Mobile & North Western R. R. Co. (Laws 1870, p. 255), and extended by the acts of 1882 (Laws, p. 932) to the L., N. O. & T. R. R. Co., and which is claimed the appellants acquired by the consolidation above mentioned.

By the third plea defendants aver that the right to exemption became *res adju-cata* by the judgment in the case of Natchez, Jackson & Columbus R. R. Co. *v.* Lambert, 70 Miss., 779, and that the latter decision in Adams, State revenue agent, *v.* Y. & M. V. R. R. Co., overruling that case and announcing a contrary decision, will, if applied in this case, be violative of the fourteenth amendment to the Constitution of the United States.

Plaintiff did not by simply demurring to this plea accept the challenge of defendants as to the correctness of the former decision of this court in his own favor, but interposed several replications, which gave rise to numerous rejoinders and demurrers—a ramification of special pleadings, every branch — which culminated in rulings adverse to defendant's right to the exemption sought.

292 To the third plea, which set up the decree in the Lambert case as *res adju-cata*, plaintiff filed replication; to which a demurrer was overruled and leave given to rejoin. A rejoinder was filed; to which a demurrer was sustained.

We deem it unnecessary to follow counsel into his labyar-nth of

special pleadings, or to pass upon the various questions which they present. It is sufficient to say that all the defenses sought to be availed of by defendants rest upon and must fall with their pleas. We are earnestly urged in behalf of appellants to overrule the case of Adams *v.* Y. & M. V. R. R. Co., which denies to them the exemption set out in these pleas, and to re-establish the Lambert case. Careful reconsideration of the Lambert case has strengthened rather than shaken our conviction as to its unsoundness in so far as it held that the exemption in question, if it then existed, passed to the consolidated company.

But we cannot assent to the other view announced in the Lambert case that such exemption, after being repealed by the Code of 1880, was restored by the acts of 1884 (Laws, p. 29). The strong doubt expressed as to this, in the opinion in the main case, has given place to conviction that no such effect can be given to that act. The rule is universal that statutes granting exemptions from taxation must be strictly construed in favor of the taxing power. The intent to confer the exemption must be clear and unmistakable. The act of 1884 was a mere amendment of sections 607 and 608, Code 1880, in relation of the privilege taxes which railroad companies might elect to pay in lieu of ad valorem taxes. The language of the act falls short of being a clear and unambiguous grant anew of a general exemption from taxation. The doubt must be resolved against the claim of exemption.

No *res adju cata* as to the exemption here claimed arose out of the Lambert case. As to this and the other questions above mentioned we are content with the reasoning of the opinion in the main case.

The various demurrers should have been extended back to the pleas and sustained. The arguments for appellants that this
293 court should not adopt such a course where the court below has not done so, because the effect might be to cut off the right to file additional pleas, might come with force in some cases. But defendants in this case, after having filed a plea which was held bad on demurrer, have already once availed of leave given — plead over, and by the course of plaintiff's right to a- ultimate recovery if the claim to exemption be denied, and as no point is made as to the regularity of the assessments, we will not hesitate to give the demurrers their full effect.

The judgment, however arrived at, was right and must be affirmed.

Affirmed.

294 UNITED STATES OF AMERICA,
State of Mississippi.

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
v.
WIRT ADAMS, State Revenue Agent.
No. 9462.

Petition for Writ of Error, etc.

To the Honl. Albert H. Whitfield, chief justice of the supreme court of the State of Mississippi:

The petition of the Yazoo & Mississippi Valley Railroad Company and of the Illinois Central Railroad Company and of the Chicago, St. Louis & New Orleans Railroad Company respectfully shows that on the 7th day of May, 1900, the said supreme court rendered judgment against the petitioners in a certain cause wherein your petitioner The Yazoo & Mississippi Valley Railroad Company were the appellants and the other petitioners were their sureties on their appeal bond, and Wirt Adams, State revenue agent in and for the State of Mississippi, was appellee, for the sum of $15,243.77, with six per cent. interest from July 8, 1899, and also for statutory damages amounting to $762.18 and for costs, and in legal effect awarded thereon, as will appear by reference to the record and proceedings in said cause; that in said suit was drawn in question the validity of certain statutes of the said State of Mississippi, on the ground of their being repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such statutes, and that in said suit was drawn in question the validity of certain provisions of the constitution of the said State of Mississippi adopted November 1st, 1890, on the ground of their being repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such provisions,
295 and *in that* said suit was also drawn in question the validity of an authority exercised by the State revenue agent under the statutes and constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decision of the supreme court was in favor of the validity of such authority, and that in said suit was drawn in question the validity of an authority exercised by the railroad commission of said State, acting as assessors of the railroad property for taxation under the statutes and constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decision of the said supreme court was in favor of the validity of such authority, and that in said suit was also drawn in question the validity of an authority exercised by the said supreme court of said State by the circuit court of Hinds county, in said State, under the statutes and constitution of said State, on the ground that the same is repugnant thereto, and the decision of the said supreme court was in favor of the validity of such authority, and that in said suit the petitioners,

who were the appellants, claimed a right under the Constitution and statutes of the United States and the decision of said supreme court was against the same rights specially set up and claimed under such Constitution and statutes; claimed a privilege and immunity under the Constitution and statutes of the United States and under the fourteenth amendment to said Constitution and the decision of the said supreme court was against said privilege and immunity set up and claimed specially under such Constitution and under said fourteenth amendment and under said statutes.

And the decision of the said supreme court of the State of Mississippi was final, and the said supreme court is the court of the highest resort in said State.

Wherefore your petitioners are aggrieved, and they pray for a writ of error, with citation and supersedeas, returnable into
296 the Supreme Court of the United States on the —; and, as in duty bound, they will ever pray, etc.

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY,
By EDWARD MAYES, *Att'y.*
THE ILLINOIS CENTRAL RAILROAD COMPANY,
By EDWARD MAYES, *Att'y.*
THE CHICAGO, ST. LOUIS & NEW ORLEANS RAILROAD COMPANY,
By EDWARD MAYES, *Att'y.*

STATE OF MISSISSIPPI:

Desiring to give petitioners an opportunity to test in the Supreme Court of the United States the question presented in the certificate of Federal questions, it is ordered that writ of error be, and the same is hereby, allowed to the said court, and that the same be made a supersedeas, the bond, in the penal sum of thirty-two — dollars, also herewith presented, being hereby approved.

In testimony whereof witness my hand this the 12th day of June, 1900.

A. H. WHITFIELD,
Chief Justice Sup. Ct. of Miss.

297 STATE OF MISSISSIPPI:

Certificate of Federal Questions.

In the Supreme Court, March Term, 1900.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY
v.
WIRT ADAMS, State Revenue Agent. } No. 9462.

I, Albert H. Whitfield, chief justice of the supreme court of the State of Mississippi at the present time and a judge of said court, upon the argument and hearing of the above-entitled appeal, do hereby certify:

1. That upon the said argument and hearing the validity of legislation and of section 180 and 181 of the constitution of Mississippi subsequent to the statute of Mississippi, July 21st, 1870, was drawn in question by the said Yazoo & Mississippi Valley Railroad Company, the said Illinois Central Railroad Company, the said Chicago, St. Louis & New Orleans Railroad Company, on the ground of such legislation being repugnant to section 10 of article 1 of the Constitution of the United States, in that such legislation and constitutional provisions impaired the obligation of a contract between the State of Mississippi and the Yazoo & Mississippi Valley Railroad Company, and that the decision of said supreme court of Mississippi was in favor of the validity of such legislation and such constitutional provisions, the said supreme court holding that *by* act of July 21st, 1870, and March the 3rd, 1882, did not create any contract, but was *on* ineffectual effort to grant by a special act to a special corporation a special exemption from taxation, which could not, if it had ever existed, have been maintained after section 180 of constitution of 1890 cut it off, by virtue of the consolidation thereafter made in Oct., 1890.

In witness whereof I have hereunto subscribed my name the 12th day of June, in the year one thousand nine hundred.

A. H. WHITFIELD,
Chief Justice, Supreme Court.

298 *Writ of Error Bond.*

Know all men by these presents that —, the Yazoo and Mississippi Valley Railroad Company, the Illinois Central Railroad Company, the Chicago, St. Louis and New Orleans Railroad Company, as principals, and R. W. Millsaps and S. S. Carter, as sureties, are held and firmly bound unto Wirt Adams, State revenue agent, in the full and just sum of thirty-two thousand dollars ($32,000), to be paid to the said Wirt Adams, State revenue agent, his successor in office or his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this the 4th day of June, in the year of our Lord one thousand nine hundred.

Whereas lately, at a supreme court of the State of Mississippi in a suit pending in said court between The Yazoo & Mississippi Valley Railroad Company, The Illinois Central Railroad Company, The Chicago, St. Louis & New Orleans Railroad Company, appellants, and Wirt Adams, State revenue agent, respondent, a judgment was recovered against the said The Yazoo & Mississippi Valley Railroad Company and others, appellants, and the said railroad company and others having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Wirt Adams, State revenue agent, citing and admonishing him to be and appear at a

Supreme Court of the United States, to be holden at Washington, within thirty days from the date hereof:

Now, the condition of the above obligation is such that
299 if the said Yazoo & Mississippi Valley Railroad Company, the Illinois Central Railroad Company, the Chicago, St. Louis & New Orleans Railroad Company shall prosecute their writ of error to effect and answer all damages and costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

THE YAZOO & MISSISSIPPI VALLEY R. R. CO.,
By JOHN C. WELLING, *Vice-President.*

[Seal Yazoo and Mississippi Valley R. R. Co. Incorporated 1882.]

Attest: A. G. HACKSTAFF, *Sec't'y.*

ILLINOIS CENTRAL RAILROAD COMPANY,
By JOHN C. WELLING, *Vice-President.*

[Seal Illinois Central R. R. Co.]

Attest: A. G. HACKSTAFF, *Sec't'y.*

CHICAGO, ST. LOUIS & NEW ORLEANS R. R. CO.,
By JOHN C. WELLING, *Vice-President.*

[Seal Chicago, St. Louis & New Orleans Railroad Company.]

Attest: A. G. HACKSTAFF, *Sec't'y.*

SAM'L S. CARTER.
R. W. MILLSAPS.

I approve this bond.
Witness my hand June 12th, 1900.

A. H. WHITFIELD,
Chief Justice Sup. Ct. Miss.

[Endorsed:] 9462. Yazoo & Mississippi Valley Railroad Company *et als.*, plaintiffs in error, *v.* Wirt Adams, State revenue agent, use, &c., *et als.*, defendants in error. Writ of error bond. Filed June 15, 1900. E. W. Brown, clerk, by W. J. Brown, Jr., D. C.

300 *Agreement.*

UNITED STATES OF AMERICA:

In the Supreme Court.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY ET ALS., Plaintiffs in Error,
v.
WIRT ADAMS, State Revenue Agent, Use, etc., *et als.*, Defendants in Error.

The record in this cause being quite voluminous, in order to avoid expense and at the same time to avoid an unnecessary enlargement of the record, it is agreed as follows:

1. That Exhibit A to the declaration in this cause, being the assessment-rolls on which the action is based, shall be omitted from the record to be sent to the Supreme Court of the United States, inasmuch as there is no controversy over the amount of the taxes.

2. Exhibit A to the second plea of the defendants in the trial court need not be copied in the transcript for the Supreme Court of the United States, it being the same document which appears in the transcript as Exhibit A to the first plea.

3. Exhibit 1 to the third plea of the defendants in the trial court need not be copied into the transcript for the Supreme Court of the United States, it being the same document which already appears in the transcript as Exhibit A to the first plea.

4. The exhibit of the replication of the plaintiffs to the second plea need not be copied into the transcript for the Supreme Court of the United States, said exhibit being the entire record already in the Supreme Court of the United States, No. 756 of the docket for the October term, 1898, and No. 214 of the docket for the October term, 1899, of said Supreme Court of the United States.

301 5. The exhibit to the replication of the plaintiff- to the third plea of the defendant- in the trial court need not be copied into the transcript for the Supreme Court of the United States, it being the same record described under item 4 of this agreement.

6. Exhibits 2 and 3 to the rejoinders of the defendant- to the fifth replication to the second plea in the trial court need not be copied into the transcript for the Supreme Court of the United States, the said exhibits being the same which already appear in said transcript as Exhibits 2 and 3 to the third plea of the defendant-.

EDWARD MAYES,
Att'y for Plaintiffs in Error.
CRITZ, BECKETT & KIMBROUGH,
Att'y- for Defendants in Error.

302 Supreme Court of Mississippi.

I, E. W. Brown, clerk of the supreme court of Mississippi, by virtue of the foregoing writ of error and in obedience thereto, do hereby certify that the following pages, numbered from 1 to 302,

inclusive, contain a true and complete transcript of the record and proceedings had in said court in the cause of No. 9462, Yazoo & Mississippi Valley Railroad Company *et al. vs.* Wirt Adams, State revenue agent, use, etc., as the same remains of record and on file in said office.

In testimony whereof I have caused the seal of said court to be hereunto affixed, at the city of Jackson, in the State of Mississippi, this the 17th day of July, in the year of our Lord one thousand nine hundred, and of the Independence of the United States the one hundred and twenty-fourth.

[Seal Supreme Court, State of Mississippi.]

E. W. BROWN, *Clerk*,
By W. J. BROWN, JR., *D. C.*

Clerk's fee for transcript, $166.30.
Paid by Y. & M. V. R. R. Co.

E. W. BROWN, *Clerk*,
By W. J. BROWN, JR., *D. C.*

303 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable judges of the supreme court of the State of Mississippi, Greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said supreme court, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in said suit between Wirt Adams, State revenue agent, as plaintiff, and The Yazoo & Mississippi Valley Railroad Company, as defendants, and wherein judgment was rendered in favor of said plaintiff in said court on the 7th day of May, 1900, A. D., against said defendants and against The Chicago, St. Louis & New Orleans Railroad Company and The Illinois Central Railroad Company, sureties, and in which suit was drawn in question the validity of certain statutes of the State of Mississippi, on the ground of their being repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity thereof, and in which suit was also drawn in question the validity of certain provisions of the constitution of the State of Mississippi adopted November 1st, 1890, on the ground of their being repugnant to the Constitution of the United States and the amendments thereto, and the decision of the said supreme court was in favor of the validity thereof, and in which suit was also drawn in question the validity of an authority exercised by the said State revenue agent under the statute and constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such authority, and in which suit was also drawn in question the validity of an authority exercised by the railroad commission of said State acting as assessors

of railroad property for taxation under the statutes and
304 constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such authority, and in which suit was also drawn in question the validity of an authority exercised by said supreme court and by the circuit court of Hinds county, in said State, under the statutes and constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such authority, and in which suit the Yazoo & Mississippi Valley Railroad Company and the Illinois Central Railroad Company claimed a right under the Constitution and statutes of the United States and the decision of said supreme court was against such right specially set up and claimed under such Constitution and statutes, and in which suit the said Yazoo & Mississippi Valley Railroad Company claimed a privilege and immunity under the Constitution and the statutes of the United States and under the fourteenth amendment to such Constitution and the decision of the said supreme court was against the said privilege and immunity so set up and specially claimed under such Constitution and under said fourteenth amendment and under said statutes, a manifest error hath happened, to the great damage of said Yazoo & Mississippi Valley Railroad Company and of the Illinois Central Railroad Company and of said Chicago, St. Louis & New Orleans Railroad Company and of said Canton, Aberdeen & Nashville Railroad Company, as by their complaint appears, we, being willing that the error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment therein be given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with the writ, so that
you may have the same at Washington on the — day of —
305 next, in the said Supreme Court to be then and there held, that, the record of proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court, the 12th day of June, in the year of our Lord one thousand nine hundred.

Witness also my signature and the seal of the circuit court of the United States in and for the southern district of Mississippi this the day and year aforesaid.

[Seal U. S. Circuit Court, District of Mississippi, Southern Circuit.]

L. B. MOSELEY, *Clerk.*

Supreme Court of Mississippi.

I, E. W. Brown, clerk of the supreme court of Mississippi, by virtue of the within writ of error and in obedience thereto, do hereby send herewith the record and proceedings in said cause, duly certified and authenticated according to law, to the honorable Supreme Court of the United States.

In testimony whereof I have caused the seal of said court to be hereunto affixed, at the city of Jackson, in the State of Mississippi, in the year of our Lord one thousand nine hundred and of the Independence of the United States the one hundred and twenty-fourth.

[Seal Supreme Court, State of Mississippi.]

E. W. BROWN, *Clerk*,
By W. J. BROWN, Jr., *D. C.*

[Endorsed:] 9462. Yazoo & Mississippi Valley Railroad Company *et als.*, plaintiffs in error, *v.* Wirt Adams, State revenue agent, use, &c., *et als.*, defendants in error. Writ of error. Filed June 15, 1900. E. W. Brown, clerk, by W. J. Brown, Jr., D. C.

306 UNITED STATES OF AMERICA, *ss:*

To Wirt Adams, State revenue agent, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error filed in the supreme court of the State of Mississippi, wherein The Yazoo & Mississippi Valley Railroad Company and The Illinois Central Railroad Company and The Chicago, St. Louis & New Orleans Railroad Company are plaintiffs in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Albert H. Whitfield, chief justice of the supreme court of the State of Mississippi, on this the 12th day of June, A. D. 1900.

A. H. WHITFIELD,
Chief Justice Supreme Court of Miss.

[Endorsed:] 9462. Yazoo & Miss. Valley R. R. Co. *et als.*, appellants, *v.* Wirt Adams, State rev. agent, use, &c., *et als.*, appellees. Citation. Filed June 15, 1900. E. W. Brown, clerk, by W. J. Brown, Jr., D. C.

307 UNITED STATES OF AMERICA, }
Southern District Mississippi. }

Received the within citation on the 15th day of June, 1900, and served the same on the same day on Wirt Adams, State revenue agent of the State of Mississippi, personally by reading the same

to him, and also by delivering to him in his own hands a true and exact copy of the same; also delivered to him at the same time a true and exact copy of the writ of error in said cause issued pursuant to the fiat of the Hon. Albert H. Whitfield, chief justice of the supreme court of Mississippi, by L. B. Moseley, clerk of the circuit court of the United States in and for the southern district of Mississippi.

This the 15 day of June, A. D. 1900.

F. W. COLLINS,
U. S Marshal,
By R. O. EDWARDS, *Deputy.*

UNITED STATES OF AMERICA,
Southern District of Mississippi.

Personally appeared before me, L. B. Moseley, clerk of the circuit court of the United States in and for the southern district of Mississippi, R. O. Edwards, deputy U. S. marshal of the United States in and for the district and State aforesaid, duly appointed according to law, who, being by me first duly sworn, on oath saith that the foregoing return made by him of a service of the citation and a copy of the writ of error in this case of The Yazoo & Mississippi Valley Railroad Company *et als.*, plaintiffs in error, *v.* Wirt Adams, State revenue agent, defendant in error, made on the said defendant in error on the 15 day of June, 1900, is true in every particular.

Sworn to and subscribed before me this the 15 day of June, 1900, as witness my signature and official seal.

[Seal U. S. Circuit Court, District of Mississippi, Southern Circuit.]

L. B. MOSELEY, *Clerk.*

308 Supreme Court of the United States, to the October Term, A. D. 1900.

YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY, ET ALS.,
Plaintiffs in Error,
v.
WIRT ADAMS, State Revenue Agent, Use, etc., *et als.*,
Defendants in Error.

Afterwards, to wit, on the — day of ——, 1900, before the justices of the Supreme Court of the United States, at the Capitol, in the city of Washington, come the said Yazoo & Mississippi Valley Railroad Company and the said Illinois Central Railroad Company and the said Chicago, St. Louis & New Orleans Railroad Company, plaintiffs in error, by their and each of their attorney, Edward Mayes, and say that in the record and proceedings aforesaid there is manifest error in the particulars following, to wit:

1. The said supreme court of the State of Mississippi erred in rendering the judgment of May 7, 1900, whereby it was adjudged that the demurrers which had been interposod in the trial court should have been extended to the second and third pleas of the de-

fendants, and said second and third pleas were held insufficient in law, and the judgment of said trial court was affirmed.

2. The said supreme court of the State of Mississippi erred in rendering the judgment of May 7, 1900, whereby the tax provisions of the Annotated Code of 1892 and the act of 1894, defining the powers of the State revenue agent, and the constitution adopted Nov. 1st, 1890, and the general revenue law of the State of Mississippi of the year 1898 were given effect against the contract rights of the plaintiff in error, The Yazoo & Mississippi Valley Railroad Company, embodied in the acts of July 21, 1870, and of August 8, 1870, which constituted the charter of the Natchez and Jackson Railroad Company, and whereby the obligation of such contract rights was impaired, contrary to section 10, article I, of the Constitution of the United States.

309 3. The said supreme court erred in rendering the judgment of May 7, 1900, whereby the tax provisions of the Annotated Code of 1892 and the act of 1894, defining the powers of the State revenue agent, and the constitution adopted Nov. 1st, 1890, and the general revenue law of 1898 were given effect in such manner as to deprive the plaintiffs in error of their property without due process of law, and also to deny to them the equal protection of the law, in violation of the fourteenth amendment to the Constitution of the United States.

4. The said supreme court erred in holding that the right conferred upon the Natchez & Jackson Railroad Company by the act of July 21, 1870, entitled "An act to incorporate the Natchez & Jackson Railroad Company," and by the act of August 8, 1870, entitled "An act supplemental to the acts of incorporation of certain railroad companies," was not a contract of appropriation protected by section 10, article I, of the Constitution of the United States, but was only such an exemption from taxation which was repealable at the will of the legislature of Mississippi under section 12, article 12, and section 20, article 12, of the Mississippi constitution of 1869.

5. The said supreme court erred in holding that the right conferred upon the Natchez and Jackson Railroad Company by the acts of July 21 and of August 8, 1870, aforesaid was repealable by the legislature, as aforesaid, and in holding, further, that such right was in fact repealed by the Revised Code of 1880 and by act of March 18, 1886, entitled "An act to amend sections 557 and 585, Code of 1880, so as to increase the public revenue and provide for the faithful collection of the same."

6. The said supreme court erred in holding that the right conferred upon the Natchez and Jackson Railroad Company — the acts of July 21 and of August 8, 1870, aforesaid was repealable by the legislature, as aforesaid, and in holding, further, that such right was in fact repealed by the provisions on taxation of the Annotated Code of 1892.

310 7. The said supreme court erred in holding that the taxes sued for in this cause were not payable by affidavits made in conformity with section 21 of the charter of the Mobile & Northwestern

Railroad Company (extended to and made a part of the charter of the Natchez & Jackson Railroad Company by the act of August 8, 1870, aforesaid), and that the State revenue agent can now sue for and recover the same in currency without respect to and contrary to those acts under color of authority conferred on him and on the railroad commission of the State of Mississippi by provisions of the Annotated Code of 1892 and of the said act of 1894, defining the powers of said revenue agent, and of the general revenue act of 1898.

8. The said supreme court erred in holding that said section 21 of the charter of the Mobile & Northwestern Railroad Company was void *ab initio* because repugnant to the provisions of section 13, article 12, and section 20, article 12, of the Mississippi constitution of 1869, and that its extension to the Natchez and Jackson Railroad Company by said act of August 8, 1870, was void for the same reason, and in overruling the case of The Mississippi Mills *v.* Cook, cheriff, reported in 56 Mississippi Reports, beginning at page 40 thereof, and announcing a new construction of said sections 13 and 20 of said article 12 and applying such new construction in this case.

9. The said supreme court erred in holding that the consolidation effected October 24, 1892, did not operate by way of merger, but created a new company, and brought the new company so created under a new rule of corporate existence and liability and a new rule of taxation enacted by sections 180 and 181 of the Mississippi constitution of 1890, the provisions on taxation of the Annotated Code of 1892, and the act of 1894, aforesaid, definingthe powers of the State revenue agent, and the general revenue law of 1898.

10. The said supreme court erred in holding that the charter of the Louisville, New Orleans & Texas Railway Company and of the Yazoo & Mississippi Valley Railroad Company did not authorize a consolidation between them to operate by way of a merger,
311 and, further, that the deed of consolidation of October 24, 1892, did not provide for such consolidation, but that the consolidation effected was and could only be one whereby the corporate existence of the consolidating companies was terminated and a new company was formed, subject to the provisions of the chapter on corporations in the Mississippi constitution of 1890.

11. The said supreme court erred in overruling the case of Natchez, Jackson & Columbus Railroad Company *v.* Lambert, tax collector, 70 Mississippi Reports, beginning at page 779, decided in 1893, and in announcing a new and different construction of the effect of the consolidation of October 24, 1892, from the construction adjudged in that case and in applying such new and different construction in this case.

12. The said supreme court erred in holding that the new constitution of Mississippi, adopted November 1, 1890, withdrew from the said Louisville, New Orleans & Texas Railway Company and the Yazoo & Mississippi Valley Railroad Company the powers of consolidation granted to them in the year 1882 by their respective charters, and allowed them to consolidate with each other only on condition of becoming a new company, subject to the provisions of

the chapter on corporations in said constitution and subject to the provisions of the Annotated Code of 1892 on the subject of taxation and to the provisions of the act of 1894 defining the powers of the State revenue agent, and the provisions of the general revenue law of 1898.

13. The said supreme court erred in holding that the third plea of the defendants was insufficient in law, and that the Lambert case did not constitute *res adjudicata*.

EDWARD MAYES,
Attorneys for Plaintiffs in Error.

[Endorsed:] 9462. Yazoo & Mississippi Valley Railroad Company *et als.*, plaintiffs in error, *v.* Wirt Adams, State revenue agent, use, &c., *et als.*, defendants in error. Assignment of errors. Filed June 15, 1900. E. W. Brown, clerk, by W. J. Brown, Jr., D. C.

Endorsed on cover: File No., 17,841. Mississippi supreme court. Term No., 356. The Yazoo and Mississippi Valley Railroad Company, The Illinois Central Railroad Company, and The Chicago, St. Louis & New Orleans Railroad Company, plaintiffs in error, *vs.* Wirt Adams, State revenue agent. Filed July 24th, 1900.

No. 356.

Stipulation to abide decision in 355.

Office Supreme Court U. S.
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JAMES H. McKENNEY

Filed Oct. 11, 1900.

Supreme Court of the United States

October Term, A. D. 1900.

No. 356.

Yazoo and Mississippi Railroad Company,
PLAINTIFF IN ERROR.

vs.

Wirt Adams, State Revenue Agent, et al.,
Defendants in Error.

Agreement to Let This Case Abide by Yazoo and Mississippi Valley Railroad Company, vs. Wirt Adams, State Revenue Agent, et al., No. 355, on the Docket of This Court.

2975

IN THE SUPREME COURT OF THE UNITED STATES.

NO. 356.

OCTOBER TERM, A. D. 1900.

YAZOO & MISSISSIPPI VALLEY R. R. Co., Plaintiff in Error,

vs.

WIRT ADAMS, STATE REVENUE AGENT, ET AL., Defendant in Error.

It is hereby agreed between the attorneys for the respective parties herein that this cause shall abide and be determined in the Supreme Court of the United States on this writ of error by the result of Yazoo & Mississippi Valley R. R. Co. vs. Wirt Adams, State Revenue Agent, et al., No. 355 on the docket of this Court to October Term, 1900; provided, said No. 355 shall be heard on the merits, or on motion to dismiss or affirm, at the October Term, 1900, of said Court at the same time Nos. 244, 318, 319, 320 and 324 on the docket of said Court of October Term, 1899, and being Nos. 35, 77, 78, 79, 80 on the docket of October Term, 1900, are heard, on or about October 15th, 1900. Signed in duplicate, September 26, 1900.

EDWARD MAYES,
Attorney for Plaintiff in Error.

R. C. BECKETT,
F. A. CRITZ,
MARCELLUS GREEN,
Attorneys for Defendant in Error.